

272	Adulterating food or drink for man intended for sale so as to make the same noxious.	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for six months, or fine of one thousand rupees, or both.	Ditto.
273	Selling any food or drink as food and drink for man knowing the same to be noxious.	Ditto	...	Ditto	...	Ditto	...	Ditto	Ditto.
274	Adulterating any drug or medical preparation intended for sale so as to lessen its efficacy, or to change its operation, or to make it noxious.	Ditto	...	Ditto	...	Ditto	...	Ditto	Ditto.
275	Offering for sale or issuing from a dispensary any drug or medical preparation known to have been adulterated.	Ditto	...	Ditto	...	Ditto	...	Ditto	Ditto.
276	Knowingly selling or issuing from a dispensary any drug or medical preparation as a different drug or medical preparation.	Ditto	...	Ditto	...	Ditto	...	Ditto	Ditto.
277	Defiling the water of a public spring or reservoir.	May arrest without warrant.	...	Ditto	...	Ditto	...	Imprisonment of either description for three months, or fine of five hundred rupees, or both.	Any Magistrate.
278	Making atmosphere noxious to health.	Shall not arrest without warrant.	...	Ditto	...	Ditto	...	Fine of five hundred rupees	Ditto.
279	Driving or riding on a public way so rashly or negligently as to endanger human life, &c.	May arrest without warrant.	...	Ditto	...	Ditto	...	Imprisonment of either description for six months, or fine of one thousand rupees, or both.	Ditto.
280	Navigating any vessel so rashly or negligently as to endanger human life, &c.	Ditto	...	Ditto	...	Ditto	...	Ditto	Magistrate of the District, or Subordinate Magistrate of First Class.
281	Exhibition of a false light, mark, or buoy.	Ditto	...	Warrant	...	Ditto	...	Imprisonment of either description for seven years, or fine, or both.	Court of Session.
282	Conveying for hire any person by water in a vessel in such a state, or so loaded, as to endanger his life.	Ditto	...	Summons	...	Ditto	...	Imprisonment of either description for six months, or fine of one thousand rupees, or both.	Magistrate of the District, or Subordinate Magistrate of First Class.
283	Causing danger, obstruction, or injury in any public way or line of navigation.	Ditto	...	Ditto	...	Ditto	...	Fine of two hundred rupees	Ditto.
284	Dealing with any poisonous substance so as to endanger human life, &c.	Shall not arrest without warrant.	...	Ditto	...	Ditto	...	Imprisonment of either description for six months, or fine of one thousand rupees, or both.	Ditto.
285	Dealing with fire or any combustible matter so as to endanger human life, &c.	May arrest without warrant.	...	Ditto	...	Ditto	...	Ditto	Any Magistrate.

CHAPTER XIV.—OFFENCES AFFECTING THE PUBLIC HEALTH, SAFETY, CONVENIENCE, DECENCY AND MORALS

(continued.)

1	2	3	4	5	6	7
Section.	Offence.	Whether the Police may arrest without warrant or not.	Whether a warrant or summons shall or may be issued in the first instance.	Whether bailable or not.	Punishment under the Indian Penal Code.	By what Court triable.
286	So dealing with any explosive substance.	May arrest without warrant.	Summons	Bailable	Imprisonment of either description for six months, or fine of one thousand rupees, or both.	Any Magistrate.
287	So dealing with any machinery.	Shall not arrest without warrant.	Ditto	Ditto	Ditto	Magistrate of the District, or Subordinate Magistrate of First Class.
288	A person omitting to guard against probable danger to human life by the fall of any building over which he has a right entitling him to pull it down or repair it.	Ditto	Ditto	Ditto	Ditto	Ditto.
289	A person omitting to take order with any animal in his possession, so as to guard against danger to human life, or of grievous hurt from such animal.	May arrest without warrant.	Ditto	Ditto	Ditto	Any Magistrate.
290	Committing a public nuisance.	Shall not arrest without warrant.	Ditto	Ditto	Fine of two hundred rupees	Ditto.
291	Continuance of nuisance after injunction to discontinue.	May arrest without warrant.	Ditto	Ditto	Simple imprisonment for six months, or fine, or both.	Magistrate of the District, or Subordinate Magistrate of First Class.
292	Sale, &c., of obscene books, &c.	Ditto	Warrant	Ditto	Imprisonment of either description for three months, or fine, or both.	Ditto.
293	Having in possession obscene book, &c., for sale or exhibition.	Ditto	Ditto	Ditto	Ditto	Ditto.
294	Obscene songs.	Ditto	Ditto	Ditto	Ditto	Ditto.
294 A.	Keeping a lottery office.	Shall not arrest without warrant.	Summons	Ditto	Imprisonment of either description for six months, or fine, or both.	Any Magistrate.
	Publishing proposals relating to lotteries.	Ditto	Ditto	Ditto	Fine of a thousand rupees	Ditto.

CHAPTER XV—OFFENCES RELATING TO RELIGION.

		May arrest with- out warrant.	Summons	Bailable	...	Imprisonment of either description for two years, or fine, or both.	Magistrate of the District.
295	Destroying, damaging, or defiling a place of worship or sacred object with intent to insult the religion of any class of persons.						
296	Causing a disturbance to an assembly engaged in religious worship.	Ditto	Ditto	Ditto	...	Imprisonment of either description for one year, or fine, or both.	Ditto.
297	Trespassing in a place of worship or sepulture, disturbing funeral with intention to wound the feelings or to insult the religion of any person, or offering indignity to a human corpse.	Ditto	Ditto	Ditto	...	Ditto	Ditto.
298	Uttering any word or making any sound in the hearing, or making any gesture, or placing any object in the sight of any person, with intention to wound his religious feelings.	Shall not arrest without war- rant.	Ditto	Ditto	...	Ditto	Ditto.

CHAPTER XVI—OFFENCES AFFECTING THE HUMAN BODY.

Offences affecting life.

		May arrest with- out warrant.	Warrant	Not bailable	...	Death, transportation for life, and fine.	Court of Session.
302	Murder.						
303	Murder by a person under sentence of transportation for life.	Ditto	Ditto	Ditto	...	Death	Ditto.
304	Culpable homicide not amounting to murder if act by which the death is caused is done with intention of causing death, &c.	Ditto	Ditto	Ditto	...	Transportation for life, or imprisonment of either description for ten years, and fine.	Ditto.
	If act is done with knowledge that it is likely to cause death, but without any intention to cause death, &c.	Ditto	Ditto	Ditto	...	Imprisonment of either description for ten years, or fine, or both.	Ditto.
304A.	Causing death by negligence.	Ditto	Ditto	Bailable	...	Imprisonment of either description for two years, or fine, or both.	Court of Session or Magistrate of the District.
305	Abetment of suicide committed by a child, or insane or delirious person, or an idiot, or a person intoxicated.	Ditto	Ditto	Not bailable	...	Death, or transportation for life, or im- prisonment for ten years, and fine.	Court of Session.
306	Abetting the commission of suicide.	Ditto	Ditto	Ditto	...	Imprisonment of either description for ten years, and fine.	Ditto.
307	Attempt to murder.	Ditto	Ditto	Ditto	...	Ditto	Ditto.
	If such act cause hurt to any person.	Ditto	Ditto	Ditto	...	Transportation for life, or as above	Ditto.
308	Attempt to commit culpable homicide.	Ditto	Ditto	Bailable	...	Imprisonment of either description for three years, or fine, or both.	Ditto.

CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY (continued).

Offences affecting life (continued).

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
	If such act cause hurt to any person.	May arrest without warrant.	Warrant	Bailable	Imprisonment of either description for seven years, or fine, or both.	Court of Session.
309	Attempt to commit suicide.	Ditto	Ditto	Ditto	Simple imprisonment for one year, and fine.	Magistrate of the District.
311	Being a thug.	Ditto	Ditto	Not bailable	Transportation for life, and fine.	Court of Session.

Of the causing of Miscarriage ; of injuries to unborn children ; of the exposure of infants ; and of the concealment of births.

		Shall not arrest without warrant.	Warrant	Bailable	Imprisonment of either description for three years, or fine, or both.	Court of Session.
312	Causing miscarriage.					
	If the woman be quick with child.	Ditto	Ditto	Ditto	Imprisonment of either description for seven years, and fine.	Ditto.
313	Causing miscarriage without woman's consent.	Ditto	Ditto	Not bailable	Transportation for life, or imprisonment of either description for ten years, and fine.	Ditto.
314	Death caused by an act done with intent to cause miscarriage.	Ditto	Ditto	Ditto	Imprisonment of either description for ten years, and fine.	Ditto.
	If act done without woman's consent.	Ditto	Ditto	Ditto	Transportation for life, or as above.	Ditto.
315	Act done with intent to prevent a child being born alive, or to cause it to die after its birth.	Ditto	Ditto	Ditto	Imprisonment of either description for ten years, or fine, or both.	Ditto.
316	Causing death of a quick unborn child by an act amounting to culpable homicide.	Ditto	Ditto	Ditto	Imprisonment of either description for ten years, and fine.	Ditto.
317	Exposure of a child under twelve years by parent or person having care of it with intention of wholly abandoning it.	May arrest without warrant.	Ditto	Bailable	Imprisonment of either description for seven years, or fine, or both.	Ditto.

318	Concealment of birth by secret disposal of dead body	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for two years, or fine, or both.	Court of Session or Magistrate of the District.
<i>Of Hurt.</i>							
323	Voluntarily causing hurt.	Shall not arrest without warrant.	Summons	...	Bailable	Imprisonment of either description for one year, or fine of one thousand rupees, or both.	Any Magistrate.
324	Voluntarily causing hurt by dangerous weapons or means.	May arrest without warrant.	Ditto	...	Ditto	Imprisonment of either description for three years, or fine, or both.	Court of Session, or Magistrate of the District, or Subordinate Magistrate of First Class.
325	Voluntarily causing grievous hurt.	Ditto	Ditto	...	Ditto	Imprisonment of either description for seven years, and fine.	Ditto.
326	Voluntarily causing grievous hurt by dangerous weapons or means.	Ditto	Ditto	...	Not bailable	Transportation for life, or imprisonment of either description for ten years, and fine.	Court of Session.
327	Voluntarily causing hurt to extort property or a valuable security, or to constrain to do an illegal act which facilitate the commission of an offence.	Ditto	Warrant	...	Ditto	Imprisonment of either description for ten years, and fine.	Ditto.
328	Administering stupefying drug with intent to cause hurt.	Ditto	Ditto	...	Ditto	Ditto	Ditto.
329	Voluntarily causing grievous hurt to extort property or a valuable security, or to constrain to do an illegal act which may facilitate the commission of an offence.	Ditto	Ditto	...	Ditto	Transportation for life, or imprisonment of either description for ten years, and fine.	Ditto.
330	Voluntarily causing hurt to extort confession or information, or to compel restoration of property, &c.	Ditto	Ditto	...	Bailable	Imprisonment of either description for seven years, and fine.	Ditto.
331	Voluntarily causing grievous hurt to extort confession or information, or to compel restoration of property, &c.	Ditto	Ditto	...	Not bailable	Imprisonment of either description for ten years, and fine.	Ditto.
332	Voluntarily causing hurt to deter public servant from his duty.	Ditto	Ditto	...	Bailable	Imprisonment of either description for three years, or fine, or both.	Court of Session, or Magistrate of the District.
333	Voluntarily causing grievous hurt to deter public servant from his duty.	Ditto	Ditto	...	Not bailable	Imprisonment of either description for ten years, and fine.	Court of Session.
334	Voluntarily causing hurt on grave and sudden provocation, not intending to hurt any other than the person who gave the provocation.	Ditto	Summons	...	Bailable	Imprisonment of either description for one month, or fine of five hundred rupees, or both.	Any Magistrate.

CHAPTER XVI—OFFENCES AFFECTING THE HUMAN BODY (continued).
Of Hurt (continued).

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
335	Causing grievous hurt on grave and sudden provocation, not intending to hurt any other than the person who gave the provocation.	May arrest without warrant.	Summons	Bailable	Imprisonment of either description for four years, or fine of two thousand rupees, or both.	Court of Session, or Magistrate of the District.
336	Doing any act which endangers human life or the personal safety of others.	Ditto	Ditto	Ditto	Imprisonment of either description for three months, or fine of two hundred and fifty rupees, or both.	Any Magistrate.
337	Causing hurt by an act which endangers human life, &c.	Ditto	Ditto	Ditto	Imprisonment of either description for six months, or fine of five hundred rupees, or both.	Magistrate of the District, or Subordinate Magistrate of First Class.
338	Causing grievous hurt by an act which endangers human life, &c.	Ditto	Ditto	Ditto	Imprisonment of either description for two years, or fine of one thousand rupees, or both.	Ditto.

Of wrongful Restraint and wrongful Confinement.

		May arrest without warrant.	Summons	Bailable		Any Magistrate.
341	Wrongfully restraining any person.				Simple imprisonment for one month, or fine of five hundred rupees, or both.	
342	Wrongfully confining any person.	Ditto	Ditto	Ditto	Imprisonment of either description for one year, or fine of one thousand rupees, or both.	Magistrate of the District, or Subordinate Magistrate of First Class.
343	Wrongfully confining for three or more days.	Ditto	Ditto	Ditto	Imprisonment of either description for two years, or fine, or both.	Ditto.
344	Wrongfully confining for ten or more days.	Ditto	Ditto	Ditto	Imprisonment of either description for three years, and fine.	Court of Session, or Magistrate of the District.

345	Keeping any person in wrongful confinement, knowing that a writ has been issued for his liberation.	Ditto	...	Ditto	...	Imprisonment of either description for two years, in addition to imprisonment under any other section.	Ditto.
346	Wrongful confinement in secret.	May arrest without warrant.	Ditto	...	Ditto	...	Ditto.
347	Wrongful confinement for the purpose of extorting property, or constraining to an illegal act, &c.	Ditto	...	Ditto	...	Imprisonment of either description for three years, and fine.	Ditto.
348	Wrongful confinement for the purpose of extorting confession or information, or of compelling restoration of property, &c.	Ditto	...	Ditto	...	Ditto	Ditto.

Of Criminal Force and Assault.

352	Assault or use of criminal force otherwise than on grave provocation.	Shall not arrest without warrant.	Summons	...	Bailable	...	Imprisonment of either description for three months, or fine of five hundred rupees, or both.	Any Magistrate.
353	Assault or use of criminal force to deter a public servant from discharge of his duty.	May arrest without warrant.	Warrant	...	Ditto	...	Imprisonment of either description for two years, or fine, or both.	Magistrate of the District, or Subordinate Magistrate of First Class.
354	Assault or use of criminal force to a woman with intent to outrage her modesty.	Ditto	Ditto	...	Ditto	...	Ditto	Ditto.
355	Assault or criminal force with intent to dishonour a person otherwise than on grave and sudden provocation.	Shall not arrest without warrant.	Summons	...	Ditto	...	Ditto	Ditto.
356	Assault or criminal force in attempt to commit theft of property worn or carried by a person.	May arrest without warrant.	Warrant	...	Not bailable	...	Ditto	Any Magistrate.
357	Assault or use of criminal force in attempt wrongfully to confine a person.	Ditto	Ditto	...	Bailable	...	Imprisonment of either description for one year, or fine of one thousand rupees, or both.	Ditto.
358	Assault or use of criminal force on grave and sudden provocation.	Shall not arrest without warrant.	Summons	...	Ditto	...	Simple imprisonment for one month, or fine of two hundred rupees, or both.	Ditto.

Of Kidnapping, Forcible Abduction, Slavery, and forced Labour.

363	Kidnapping.	May arrest without warrant.	Warrant	...	Not bailable	...	Imprisonment of either description for seven years, and fine.	Court of Session.
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CHAPTER XVI—OFFENCES AFFECTING THE HUMAN BODY—(continued).
Of Kidnapping, Forcible Abduction, Slavery, and forced Labour (continued).

1	2	3	4	5	6	7
Section.	Offence.	Whether the Police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Punishment under the Indian Penal Code.	By what Court triable.
364	Kidnapping or abducting in order to murder.	May arrest without warrant.	Warrant	Not bailable	Transportation for life, or rigorous imprisonment for ten years, and fine.	Court of Session.
365	Kidnapping or abducting with intent secretly and wrongfully to confine a person.	Ditto	Ditto	Ditto	Imprisonment of either description for seven years, and fine.	Ditto.
366	Kidnapping or abducting a woman to compel her marriage or to cause her defilement, &c.	Ditto	Ditto	Ditto	Imprisonment of either description for ten years, and fine.	Ditto.
367	Kidnapping or abducting in order to subject a person to grievous hurt, slavery, &c.	Ditto	Ditto	Ditto	Ditto	Ditto.
368	Concealing or keeping in confinement a kidnapped person.	Ditto	Ditto	Ditto	Punishment for kidnapping or abduction.	Ditto.
369	Kidnapping or abducting a child with intent to take property from the person of such child.	Ditto	Ditto	Ditto	Imprisonment of either description for seven years, and fine.	Ditto.
370	Buying or disposing of any person as a slave.	Shall not arrest without warrant.	Ditto	Bailable	Ditto	Ditto.
371	Habitual dealing in slaves.	May arrest without warrant.	Ditto	Not bailable	Transportation for life, or imprisonment of either description for ten years, and fine.	Ditto.
372	Selling or letting to hire a minor for the purpose of prostitution.	Ditto	Ditto	Ditto	Imprisonment for either description for ten years, and fine.	Ditto.
373	Buying or obtaining possession of a minor for the same purpose.	Ditto	Ditto	Ditto	Ditto	Ditto.
374	Unlawful compulsory labour.	Ditto	Ditto	Bailable	Imprisonment of either description for one year, or fine, or both.	Any Magistrate.

Of Rape.

376 Rape.	May arrest without warrant.	Warrant	Not bailable	Transportation for life, or imprisonment of either description for ten years, and fine.	Court of Session.
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Of Unnatural Offences.

377 Unnatural offences.	May arrest without warrant.	Warrant	Not bailable	Transportation for life, or imprisonment of either description for ten years, and fine.	Court of Session.
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CHAPTER XVII—OF OFFENCES AGAINST PROPERTY.

Of Theft.

379 Theft.	May arrest without warrant.	Warrant	Not bailable	Imprisonment of either description for three years, or fine, or both.	Any Magistrate.
380 Theft in a building, tent, or vessel.	Ditto	Ditto	Ditto	Imprisonment of either description for seven years, and fine.	Ditto.
381 Theft by clerk or servant of property in possession of master or employer.	Ditto	Ditto	Ditto	Ditto	Court of Session, or Magistrate of the District.
382 Theft, preparation having been made for causing death, or hurt, or restraint, or fear of death, or of hurt, or of restraint, in order to the committing such theft, or to retiring after committing it, or to retaining property taken by it.	Ditto	Ditto	Ditto	Rigorous imprisonment for ten years, and fine.	Court of Session.

Of Extortion.

384 Extortion.	Shall not arrest without warrant.	Warrant	Bailable	Imprisonment of either description for three years, or fine, or both.	Court of Session, or Magistrate of the District, or Subordinate Magistrate of First Class.
385 Putting or attempting to put in fear of injury, in order to commit extortion.	Ditto	Ditto	Ditto	Imprisonment of either description for two years, or fine, or both.	Ditto.

CHAPTER XVII.—OF OFFENCES AGAINST PROPERTY—(continued).

Of Extortion (continued).

Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
386	Extortion by putting a person in fear of death or grievous hurt.	Shall not arrest without warrant.	Warrant	Not bailable	Imprisonment of either description for ten years, and fine.	Court of Session.
387	Putting or attempting to put a person in fear of death or grievous hurt, in order to commit extortion.	Ditto	Ditto	Ditto	Imprisonment of either description for seven years, and fine.	Ditto.
388	Extortion by threat of accusation of an offence punishable with death, transportation for life, or imprisonment for ten years. If the offence threatened be an unnatural offence.	Ditto	Ditto	Ditto	Imprisonment of either description for ten years, and fine.	Ditto.
389	Putting person in fear of accusation of offence punishable with death, transportation for life, or with imprisonment for ten years, in order to commit extortion. If the offence be an unnatural offence.	Ditto	Ditto	Ditto	Transportation for life.	Ditto.
					Imprisonment of either description for ten years, and fine.	Ditto.
					Transportation for life.	Ditto.

Of Robbery and Dacoity.

Section.	Offence.	May arrest without warrant.	Warrant	Not bailable	Rigorous imprisonment for ten years, and fine.	Court of Session, or Magistrate of the District.
392	Robbery.	Ditto	Ditto	Ditto	Rigorous imprisonment for fourteen years, and fine.	Ditto.
393	Attempt to commit robbery.	Ditto	Ditto	Ditto	Rigorous imprisonment for seven years, and fine.	Ditto.
394	Person voluntarily causing hurt in committing or attempting to commit robbery, or any other person generally concerned in such robbery.	Ditto	Ditto	Ditto	Transportation for life, or rigorous imprisonment for ten years, and fine.	Court of Session.
395	Dacoity.	Ditto	Ditto	Ditto	Ditto	Ditto.

396	Murder in dacoity.	Ditto	Ditto	Ditto	Death, transportation for life, or rigorous imprisonment for ten years, and fine.	Ditto.
397	Robbery or dacoity with attempt to cause death or grievous hurt.	Ditto	Ditto	Ditto	Rigorous imprisonment for not less than seven years.	Ditto.
398	Attempt to commit robbery or dacoity when armed with deadly weapon.	Ditto	Ditto	Ditto	Ditto	Ditto.
399	Making preparation to commit dacoity.	Ditto	Ditto	Ditto	Rigorous imprisonment for ten years, and fine.	Ditto.
400	Belonging to a gang of persons associated for the purpose of habitually committing dacoity.	Ditto	Ditto	Ditto	Transportation for life, or as above	Ditto.
401	Belonging to a wandering gang of persons associated for the purpose of habitually committing thefts.	Ditto	Ditto	Ditto	Rigorous imprisonment for seven years, and fine.	Ditto.
402	Being one of five or more persons assembled for the purpose of committing dacoity.	Ditto	Ditto	Ditto	Ditto	Ditto.

Of Criminal Misappropriation of Property.

403	Dishonest misappropriation of moveable property or converting it to one's own use.	Shall not arrest without warrant.	Warrant	Bailable	Imprisonment of either description for two years, or fine, or both.	Any Magistrate.
404	Dishonest misappropriation of property, knowing that it was in possession of a deceased person at his death, and that it has not since been in the possession of any person legally entitled to it.	Ditto	Ditto	Ditto	Imprisonment of either description for three years, and fine.	Court of Session, or Magistrate of the District.
	If by clerk or person employed by deceased.	Ditto	Ditto	Ditto	Imprisonment of either description for seven years, and fine.	Ditto.

Of Criminal Breach of Trust.

406	Criminal breach of trust.	May arrest without warrant.	Warrant	Not bailable	Imprisonment of either description for three years, or fine, or both.	Court of Session, or Magistrate of the District, or Subordinate Magistrate of First Class.
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CHAPTER XVII—OFFENCES AGAINST PROPERTY—(continued).

Of Criminal Breach of Trust (continued).

1	2	3	4	5	6	7
Section.	Offence.	Whether the Police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Punishment under the Indian Penal Code.	By what Court triable.
407	Criminal breach of trust by a carrier, wharfinger, &c.	May without warrant.	Warrant	Not bailable	Imprisonment of either description for seven years, and fine.	Court of Session, or Magistrate of the District.
408	Criminal breach of trust by a clerk or servant.	Ditto	Ditto	Ditto	Ditto	Ditto.
409	Criminal breach of trust by public servant, or by banker, merchant, or agent, &c.	Shall not arrest without warrant.	Ditto	Ditto	Transportation for life, or imprisonment of either description for ten years, and fine.	Ditto.

Of the receiving of Stolen Property.

		May without warrant.	Warrant	Not bailable	Imprisonment of either description for three years, or fine, or both.	Court of Session, or Magistrate of the District, or Subordinate Magistrate of First Class.
411	Dishonestly receiving stolen property, knowing it to be stolen.	May without warrant.	Warrant	Not bailable	Imprisonment of either description for three years, or fine, or both.	Court of Session, or Magistrate of the District, or Subordinate Magistrate of First Class.
412	Dishonestly receiving stolen property, knowing that it was obtained by dacoity.	Ditto	Ditto	Ditto	Transportation for life, or rigorous imprisonment for ten years, and fine.	Court of Session.
413	Habitually dealing in stolen property.	Ditto	Ditto	Ditto	Transportation for life, or imprisonment of either description for ten years, and fine.	Ditto.
414	Assisting in concealment or disposal of stolen property, knowing it to be stolen.	Ditto	Ditto	Ditto	Imprisonment of either description for three years, or fine, or both.	Court of Session, or Magistrate of the District, or Subordinate Magistrate of First Class.

Of Cheating.

417	Cheating.	Shall not arrest without warrant.	Warrant	Bailable	Imprisonment of either description for one year, or fine, or both	Magistrate of the District, or Subordinate Magistrate of First Class.
418	Cheating a person whose interest the offender was bound, either by law or by legal contract, to protect.	Ditto	Ditto	Ditto	Imprisonment of either description for three years, or fine, or both.	Court of Session, or Magistrate of the District, or Subordinate Magistrate of First Class.
419	Cheating by personation.	Ditto	Ditto	Ditto	Ditto	Ditto.
420	Cheating and thereby dishonestly inducing delivery of property, or the alteration or destruction of a valuable security.	Ditto	Ditto	Ditto	Imprisonment of either description for seven years, and fine.	Court of Session, or Magistrate of the District.

Of Fraudulent Deeds and Dispositions of Property.

421	Fraudulent removal or concealment of property, &c., to prevent distribution among creditors.	Shall not arrest without warrant.	Warrant	Bailable	Imprisonment of either description for two years, or fine, or both.	Magistrate of the District, or Subordinate Magistrate of First Class.
422	Fraudulently preventing from being made available for his creditors a debt or demand due to the offender.	Ditto	Ditto	Ditto	Ditto	Ditto.
423	Fraudulent execution of deed of transfer containing a false statement of consideration.	Ditto	Ditto	Ditto	Ditto	Ditto.
424	Fraudulent removal or concealment of property of himself or any other person, or assisting in the doing thereof, or dishonestly releasing any demand or claim to which he is entitled.	Ditto	Ditto	Ditto	Ditto	Ditto.

Of Mischief.

425	Mischief.	Shall not arrest without warrant.	Summons	Bailable	Imprisonment of either description for three months, or fine, or both.	Any Magistrate.
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CHAPTER XVII—OFFENCES AGAINST PROPERTY—(continued).

Of Mischief (continued).

1	2	3	4	5	6	7
Section.	Offence.	Whether the Police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily be issued in the first instance.	Whether bailable or not.	Punishment under the Indian Penal Code.	By what Court triable.
427	Mischief, and thereby causing damage to the amount of fifty rupees or upwards.	Shall not arrest without warrant.	Warrant	Bailable	Imprisonment of either description for two years, or fine, or both.	Magistrate of the District, or Subordinate Magistrate of First Class.
428	Mischief by killing, poisoning, maiming or rendering useless, any animal of the value of ten rupees or upwards.	Ditto	Ditto	Ditto	Ditto	Ditto.
429	Mischief by killing, poisoning, maiming or rendering useless, any elephant, camel, horse, &c., whatever may be its value, or any other animal of the value of fifty rupees or upwards.	Ditto	Ditto	Ditto	Imprisonment of either description for five years, or fine, or both.	Court of Session, or Magistrate of the District, or Subordinate Magistrate of First Class.
430	Mischief by causing diminution of supply of water for agricultural purposes, &c.	May arrest without warrant.	Ditto	Ditto	Ditto	Ditto
431	Mischief by injury to public road, bridge, river or navigable channel, and rendering it impassable or less safe for travelling, or conveying property.	Ditto	Ditto	Ditto	Ditto	Ditto.
432	Mischief by causing inundation or obstruction to public drainage attended with damage.	Ditto	Ditto	Ditto	Ditto	Ditto.
433	Mischief by destroying or moving or rendering less useful a light-house or sea-mark, or by exhibiting false lights.	Ditto	Ditto	Ditto	Imprisonment of either description for seven years, or fine, or both.	Court of Session.
434	Mischief by destroying or moving, &c., a landmark fixed by public authority.	Shall not arrest without warrant.	Ditto	Ditto	Imprisonment of either description for one year, or fine, or both.	Magistrate of the District, or Subordinate Magistrate of First Class.
435	Mischief by fire or explosive substance with intent to cause damage to amount of one hundred rupees or upwards.	May arrest without warrant.	Ditto	Ditto	Imprisonment of either description for seven years, and fine.	Court of Session.

436	Mischief by fire or explosive substance, with intent to destroy a house, &c.	Ditto	...	Ditto	...	Not bailable	Transportation for life, or imprisonment of either description for ten years, and fine.	Ditto.
437	Mischief with intent to destroy or make unsafe a decked vessel or a vessel of twenty tons burden.	Ditto	...	Ditto	...	Ditto	Imprisonment of either description for ten years, and fine.	Ditto.
438	The mischief described in the last section when committed by fire or any explosive substance.	Ditto	...	Ditto	...	Ditto	Transportation for life, or imprisonment of either description for ten years, and fine.	Ditto.
439	Running vessel ashore with intent to commit theft, &c.	Ditto	...	Ditto	...	Ditto	Imprisonment of either description for ten years, and fine.	Ditto.
440	Mischief committed after preparation made for causing death or hurt, &c.	Ditto	...	Ditto	...	Ditto	Imprisonment of either description for five years, and fine.	Ditto.

Of Criminal Trespass.

447	Criminal trespass.	May arrest without warrant.	...	Summons	...	Bailable	...	Imprisonment of either description for three months, or fine of five hundred rupees, or both.	Any Magistrate.
448	House-trespass.	Ditto	...	Warrant	...	Ditto	...	Imprisonment of either description for one year, or fine of one thousand rupees, or both.	Ditto.
449	House-trespass in order to the commission of an offence punishable with death.	Ditto	...	Ditto	...	Not bailable	...	Transportation for life, or rigorous imprisonment for ten years, and fine.	Court of Session.
450	House-trespass in order to the commission of an offence punishable with transportation for life.	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for ten years, and fine.	Ditto.
451	House-trespass in order to the commission of an offence punishable with imprisonment. If the offence is theft.	Ditto	...	Ditto	...	Bailable	...	Imprisonment of either description for two years, and fine.	Any Magistrate.
452	House-trespass, having made preparation for causing hurt, assault, &c.	Ditto	...	Ditto	...	Not bailable	...	Imprisonment of either description for seven years, and fine.	Court of Session, or Magistrate of the District, or Subordinate Magistrate of First Class.
453	Larking house-trespass or house-breaking.	Ditto	...	Ditto	...	Ditto	...	Ditto	Ditto.
		Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for two years, and fine.	Magistrate of the District, or Subordinate Magistrate of First Class.

CHAPTER XVII—OFFENCES AGAINST PROPERTY—(continued).

Of Criminal Trespass (continued).

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6. Punishment under the Indian Penal Code.	7 By what Court triable.
454	Lurking house-trespass or house-breaking in order to the commission of an offence punishable with imprisonment.	May arrest without warrant.	Warrant	Not bailable	Imprisonment of either description for three years, and fine.	Court of Session, or Magistrate of the District, or Subordinate Magistrate of First Class.
	If the offence is theft.	Ditto	Ditto	Ditto	Imprisonment of either description for ten years, and fine.	Ditto.
455	Lurking house-trespass or house-breaking after preparation made for causing hurt, assault, &c.	Ditto	Ditto	Ditto	Ditto	Court of Session.
456	Lurking house-trespass or house-breaking by night.	Ditto	Ditto	Ditto	Imprisonment of either description for three years, and fine.	Court of Session, or Magistrate of the District, or Subordinate Magistrate of First Class.
457	Lurking house-trespass or house-breaking by night in order to the commission of an offence punishable with imprisonment.	Ditto	Ditto	Ditto	Imprisonment of either description for five years, and fine.	Ditto.
	If the offence is theft.	Ditto	Ditto	Ditto	Imprisonment of either description for fourteen years, and fine.	Ditto.
458	Lurking house-trespass or house-breaking by night after preparation made for causing hurt, &c.	Ditto	Ditto	Ditto	Ditto	Court of Session.
459	Grievous hurt caused whilst committing lurking house-trespass or house-breaking.	Ditto	Ditto	Ditto	Transportation for life, or imprisonment of either description for ten years, and fine.	Ditto.
460	Death or grievous hurt caused by one of several persons jointly concerned in house-breaking by night, &c.	Ditto	Ditto	Ditto	Ditto	Ditto.

CHAPTER XVIII—OF OFFENCES RELATING TO DOCUMENTS AND TO TRADE OR PROPERTY-MARKS.

	Dishonestly breaking open or unfastening any closed receptacle containing or supposed to contain property.	Ditto	...	Ditto	...	Bailable	...	Imprisonment of either description for two years, or fine, or both.	Magistrate of the District, or Subordinate Magistrate of First Class.
461		Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for three years, or fine, or both.	Court of Session, or Magistrate of the District, or Subordinate Magistrate of First Class.
462	Being entrusted with any closed receptacle containing or supposed to contain any property, and fraudulently opening the same.	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for three years, or fine, or both.	Court of Session, or Magistrate of the District, or Subordinate Magistrate of First Class.
CHAPTER XVIII—OF OFFENCES RELATING TO DOCUMENTS AND TO TRADE OR PROPERTY-MARKS.									
	Forgery.	Shall not arrest without warrant.	Warrant	Bailable	...	Imprisonment of either description for two years, or fine, or both.	Court of Session.		
465		Ditto	Ditto	Not bailable	...	Imprisonment of either description for seven years, and fine.	Ditto.		
466	Forgery of a record of a Court of Justice or of a Register of Births, &c., kept by a public servant.	Ditto	Ditto	Ditto	...	Transportation for life, or imprisonment of either description for ten years, and fine.	Ditto.		
467	Forgery of a valuable security, will, or authority to make or transfer any public security, or to receive any money, &c.	Ditto	Ditto	Ditto	...	Ditto.	Ditto.		
468	When the valuable security is a promissory note of the Government of India.	May arrest without warrant.	Ditto	Ditto	...	Imprisonment of either description for seven years, and fine.	Ditto.		
469	Forgery for the purpose of cheating.	Shall not arrest without warrant.	Ditto	Ditto	...	Imprisonment of either description for three years, and fine.	Ditto.		
470	Forgery for the purpose of harming the reputation of any person, or knowing that it is likely to be used for that purpose.	Ditto	Ditto	Bailable	...	Imprisonment of either description for three years, and fine.	Ditto.		
471	Using as genuine a forged document which is known to be forged.	Ditto	Ditto	Ditto	...	Punishment for forgery	Ditto.		
472	When the forged document is a promissory note of the Government of India.	May arrest without warrant.	Ditto	Not bailable	...	Ditto	Ditto.		
473	Making or counterfeiting a seal, plate, &c., with intent to commit a forgery punishable under section 467 of the Indian Penal Code, or possessing with like intent any such seal, plate, &c., knowing the same to be counterfeit.	Shall not arrest without warrant.	Ditto	Ditto	...	Transportation for life, or imprisonment of either description for seven years, and fine.	Ditto.		
474	Making or counterfeiting a seal, plate, &c., with intent to commit a forgery punishable otherwise than under section 467 of the Indian Penal Code, or possessing with like intent any such seal, &c.	Ditto	Ditto	Ditto	...	Imprisonment of either description for seven years, and fine.	Ditto.		
475	Having possession of a document, knowing it to be forged, with intent to use it as genuine.	Ditto	Ditto	Ditto	...	Ditto	Ditto.		

CHAPTER XVIII—OF OFFENCES RELATING TO DOCUMENTS AND TO TRADE OR PROPERTY MARKS—(continued).

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
	If the document is a valuable security or will.	Shall not arrest without warrant.	Warrant	Not bailable	Transportation for life, or as above	Court of Session.
475	Counterfeiting a device or mark used for authenticating documents described in section 467 of the Indian Penal Code, or possessing counterfeit marked material.	Ditto	Ditto	Ditto	Ditto	Ditto.
476	Counterfeiting a device or mark used for authenticating documents other than those described in section 467 of the Indian Penal Code, or possessing counterfeit marked material.	Ditto	Ditto	Ditto	Imprisonment of either description for seven years, and fine.	Ditto.
477	Fraudulently destroying or defacing, or attempting to destroy or deface, or secreting a will, &c.	Ditto	Ditto	Ditto	Transportation for life, or imprisonment of either description for seven years, and fine.	Ditto.

Of Trade and Property-Marks.

		Shall not arrest without warrant.	Warrant	Bailable	Imprisonment of either description for one year, or fine, or both.	Magistrate of the District, or Subordinate Magistrate of First Class.
482	Using a false trade or property-mark with intent to deceive or injure any person.	Ditto	Ditto	Ditto	Imprisonment of either description for two years, or fine, or both.	Ditto.
483	Counterfeiting a trade or property-mark used by another, with intent to cause damage or injury.	Ditto	Ditto	Ditto	Imprisonment of either description for three years, and fine.	Court of Session, or Magistrate of the District.
484	Counterfeiting a property-mark used by a public servant, or any mark used by him to denote the manufacture, quality, &c., of any property.	Ditto	Ditto	Ditto	Imprisonment of either description for three years, or fine, or both.	Ditto.
485	Fraudulently making or having possession of any die, plate, or other instrument for counterfeiting any public or private property or trademark.	Ditto	Ditto	Ditto		

486	Knowingly selling goods marked with a counterfeit property or trademark.	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for one year, or fine, or both.	Magistrate of the District, or Subordinate Magistrate of First Class.
487	Fraudulently making a false mark upon any package or receptacle containing goods, with intent to cause it to be believed that it contains goods which it does not contain, &c.	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for three years, or fine, or both.	Court of Session, or Magistrate of the District, or Subordinate Magistrate of First Class.
488	Making use of any such false mark.	Ditto	...	Ditto	...	Ditto	...	Ditto	Ditto.
489	Removing, destroying, or defacing any property-mark with intent to cause injury.	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for one year, or fine, or both.	Magistrate of the District, or Subordinate Magistrate of First Class.

CHAPTER XIX—OF THE CRIMINAL BREACH OF CONTRACTS OF SERVICE.

490	Being bound by contract to render personal service during a voyage or journey, or to convey or guard any property or person, and voluntarily omitting to do so.	Shall not arrest without warrant.	...	Summons	...	Bailable	...	Imprisonment of either description for one month, or fine of one hundred rupees, or both.	Magistrate of the District, or Subordinate Magistrate of First Class.
491	Being bound to attend on or supply the wants of a person who is helpless from youth, unsoundness of mind, or disease, and voluntarily omitting to do so.	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for three months, or fine of two hundred rupees, or both.	Ditto.
492	Being bound by a contract to render personal service for a certain period at a distant place to which the employee is conveyed at the expense of the employer, and there voluntarily deserting the service or refusing to perform the duty.	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for one month, or fine of double the expense incurred, or both.	Ditto.

CHAPTER XX—OFFENCES RELATING TO MARRIAGE.

493	A man by deceit causing a woman not lawfully married to him to believe that she is lawfully married to him, and to cohabit with him in that belief.	Shall not arrest without warrant.	...	Warrant	...	Not bailable	...	Imprisonment of either description for ten years, and fine.	Court of Session.
494	Marrying again during the life-time of a husband or wife	Ditto	...	Ditto	...	Bailable	...	Imprisonment of either description for seven years, and fine.	Ditto.

CHAPTER XX—OFFENCES RELATING TO MARRIAGE—(continued).

1	2	3	4	5	6	7
Section.	Offence.	Whether the Police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Punishment under the Indian Penal Code.	By what Court triable.
495	Same offence with concealment of the former marriage from the person with whom subsequent marriage is contracted.	Shall not arrest without warrant.	Warrant	Not bailable	Imprisonment of either description for ten years, and fine.	Court of Session.
496	A person with fraudulent intention going through the ceremony of being married, knowing that he is not there- by lawfully married.	Ditto	Ditto	Ditto	Imprisonment of either description for seven years, and fine.	Ditto.
497	Adultery.	Ditto	Ditto	Bailable	Imprisonment of either description for five years, or fine, or both.	Ditto.
498	Enticing or taking away or detaining with a criminal intent a married woman.	Ditto	Ditto	Ditto	Imprisonment of either description for two years, or fine, or both.	Magistrate of the District.

CHAPTER XXI—OF DEFAMATION.

500	Defamation.	Shall not arrest without warrant.	Warrant	Bailable	Simple imprisonment for two years, or fine, or both.	Court of Session, or Magistrate of the District.
501	Printing or engraving matter knowing it to be defamatory.	Ditto	Ditto	Ditto	Ditto	Ditto.
502	Sale of printed or engraved substance containing defamatory matter, knowing it to contain such matter.	Ditto	Ditto	Ditto	Ditto	Ditto.

CHAPTER XXII—OF CRIMINAL INTIMIDATION, INSULT, AND ANNOYANCE.

504	Insult intended to provoke a breach of the peace.	Shall not arrest without warrant.	Warrant	Bailable	Imprisonment of either description for two years, or fine, or both.	Any Magistrate.
505	False statement, rumours, &c., circulated with intent to cause mutiny or offences against the public peace.	Ditto	Ditto	Not bailable	Ditto	Magistrate of the District.
506	Criminal intimidation.	Ditto	Ditto	Bailable	Ditto	Magistrate of the District, or Subordinate Magistrate of First Class.
	If threat be to cause death or grievous hurt, &c.	Ditto	Ditto	Ditto	Imprisonment of either description for seven years, or fine, or both.	Court of Session, or Magistrate of the District.

507	Criminal intimidation by anonymous communication or having taken precaution to conceal whence the threat comes.	Ditto	Ditto	Ditto	Imprisonment of either description for two years, in addition to the punishment under above section.	Ditto.
508	Act caused by inducing a person to believe that he will be rendered an object of Divine displeasure.	Ditto	Ditto	Ditto	Imprisonment of either description for one year, or fine, or both.	Magistrate of the District.
509	Uttering any word or making any gesture intended to insult the modesty of a woman.	Ditto	Ditto	Ditto	Simple imprisonment for one year, or fine, or both.	Ditto.
510	Appearing in a public place, &c., in a state of intoxication, and causing annoyance to any person.	Ditto	Ditto	Ditto	Simple imprisonment for twenty-four hours, or fine of ten rupees, or both.	Any Magistrate.

CHAPTER XXIII—OF ATTEMPTS TO COMMIT OFFENCES.

511	Attempting to commit offences punishable with transportation or imprisonment, and in such attempt doing any act towards the commission of the offence.	According as the offence is one in respect of which the Police may arrest without warrant or not.	According as the offence is one in respect of which a summons or warrant shall or- dinarily issue.	According as the offence contem- plated by the offender is bail- able or not.	Transportation or imprisonment not ex- ceeding half of the longest term and of the description provided for the offence, or fine, or both.	By the Court by which the offence attempted is tri- able.
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OFFENCES AGAINST OTHER LAWS.

	If punishable with death, transportation, or imprisonment for seven years or upwards.	May arrest with- out warrant.	Warrant	Not bailable	...	Court of Session.
	If punishable with imprisonment for more than three and less than seven years.	Ditto	Ditto	Ditto	Court of Session, or Magistrate of the District.
	If punishable with imprisonment for three years or less than three years.	Shall not arrest without war- rant.	Summons	Bailable	Magistrate of the District, or Subor- dinate Magistrate of First Class.
	If punishable with fine only or with imprisonment for less than one year.	Ditto	Ditto	Ditto	Any Magistrate.

STATEMENT OF OBJECTS AND REASONS.

The Commissioners appointed by Her Majesty to prepare a body of substantive law for India issued, on the 11th June 1870, a seventh Report relating to the revision of the Code of Criminal Procedure. After making some remarks on Act VIII of 1869, by which the Code was last year amended, the report proceeds to make observations upon certain points submitted for the opinion of the Commissioners by the Secretary of State for India. It adds certain other suggestions as to the improvement of the Code, and it concludes by the following observations:—

“We have endeavoured by this Report to complete the revision of the Code of Criminal Procedure in the manner which appears to have been contemplated by the local Government of India.

“We should not have adopted this method of executing the duty entrusted to us if Act VIII of 1869 had not been passed, but the existing state of the law, as altered by the provisions of that Act, has, in our opinion, rendered this the most expedient course.

“A short Act may be passed, embodying the required provisions on the points regarding which we have reported.

“In that case the original Code, XXV of 1861, with the Act VIII of 1869, and such new Act, would contain the whole law.

“Should it, however, be thought more convenient to consolidate the whole law of procedure in a single Act, this could be effected without difficulty by a process little more than mechanical.”

A draft Bill has been prepared, founded upon this Report, but it was impossible to draw it without perceiving that partly by reason of the originally defective arrangement of the Code, and partly by reason of successive amendments made with little reference to its arrangement, the Code was so ill-arranged and obscure that it appeared highly desirable to take the opportunity of re-arranging it in an intelligible and consecutive manner. No doubt there is a strong *prima facie* objection to the alteration of the arrangement of an Act of the first importance, with which most of those who have to administer it have become familiar by practice. The evil, however, is very serious, as the following account of the existing state of the Act will show.

The natural order of arrangement obviously is to follow the course of a criminal trial from the first steps for the apprehension of the offender to the execution of the final order of the Court, and to treat separately of exceptional incidents or detached subjects. To a certain extent this order has been followed in the Code as it stands, but deviations from it have been so frequent that it is extremely difficult for any one to derive from the mere perusal of the Code any connected view of the subject. To appreciate this fully the whole Code as it stands should be read; but some illustrations may be given.

The chapters relating to the prevention of offences, XVIII to XXII, are interposed between the chapters relating to proceedings before Magistrates and trials by the Court of Session. Chapter XVII, which precedes this parenthesis, provides that places where trials are to be held shall be open Courts, and chapter XXIII, which follows it, relates to Jurors and Assessors. Chapter XXIV, which relates to Judges in the Madras Presidency, is strangely prefixed to trials in the Court of Session (chapter XXVI). This is as strangely followed by a chapter (XXVII) about lunatics, the provisions as to the jurisdiction of the Sadr Courts being postponed. So that a student wishing to follow out the course of trial has to skip six chapters in order to learn what happens when a man is committed for trial, and then to skip a seventh chapter in order to learn about the course of appeal.

There is a chapter (III) on Preliminary Rules near the beginning, and another (XXXI) on General Rules at the end, which deal, utterly without any arrangement, with all sorts of subjects which ought to find a place of their own in the Act. Thus, section 43 in the Preliminary Rules provides that witnesses are to be examined on oath, and section 44 that the Court may apply portions of fine in compensation for damages. As for the General Rules, section 431 provides for the employment of interpreters; section 432 gives accused persons a right to be defended by counsel; and section 433 provides for the confinement of youths in reformatories.

The arrangement of the sections is as strange as that of the chapters. Thus, for instance—and it is only one instance—chapter XXIII, on Jurors and Assessors, is thus arranged: sections 322 and 323 prescribe the cases in which trials are to be by jury; section 324 relates to trials by assessors; sections 325-7 settle the composition of juries when Europeans or Americans are tried, and 328 the ‘number of voices necessary to a verdict’. So far, the arrangement, though not good, is intelligible; but then come a series of provisions (329—340) about jury-lists, and

the attendance of jurymen; after which come provisions (341—8) about the trial, including objections by the accused or the prosecution, which obviously ought to have preceded section 328. Section 349, which is very long, goes back to summoning juries. Section 351 returns to the subject of majorities, which had been provided for in part by section 328. The confusion is so great that a person coming fresh to the subject would have to read the chapter over several times before it presented to his mind any clear notion.

Where a plan is followed, it is a bad one. Thus, proceedings before Magistrates are put together; but instead of beginning with the simplest (summons cases) and going on to the most serious (commitment cases), this order is inverted.

The most complicated case is put first and the simplest last, and the whole Code has, in consequence, to be disfigured by continual cross-references. Thus, for instance, the mode in which evidence is to be taken in all cases is prescribed in the chapter about commitments, and certain sections in that chapter are embodied by reference in three other chapters, consecutively, with variations.

It would be easy to multiply, to any extent, illustrations of the entire want of arrangement which disfigures the Code, but these are enough. This is not a mere matter of taste. It is of the very highest practical importance in the administration of justice that the course of proceedings prescribed should be easily apprehended as a whole, and that it should be capable of being learnt with the greatest possible ease by those who are to administer it. It must be remembered, in particular, that the Codes have an educational as well as a merely practical value. Judicial officers learn, and are meant to learn, their business in the first instance from the Codes themselves, and it is waste of valuable time to make them needlessly difficult and intricate.

The Code has accordingly been re-arranged, and the draft now published differs from the existing law principally in the fact that it has been so re-arranged.

The first leading distinction recognized in that draft is between those provisions which relate to—

- (1) The trial of offenders;
- (2) The prevention of the commission of crime or continuance of illegal conduct.

It is divided into eleven Parts, of which

- nine relate to the punishment of crimes;
- one to the prevention of crimes; and
- one to miscellaneous matters.

The Parts relating to the punishment of crimes are as follows.

Part I deals with the jurisdiction of the Courts in four chapters. They regulate—
the ordinary jurisdiction of the Courts as to crimes (chapter 1):

the special jurisdiction with which Local Governments in their discretion may invest particular officers, especially Magistrates (chapter 2):

jurisdiction as it varies with respect to persons (chapter 3). This chapter includes all provisions relating to European British subjects, and to offenders liable to be tried for offences committed in Native States or elsewhere. The opportunity has been taken of repealing Act I of 1849, remodelling some of its provisions which are objectionable and even of questionable validity, and introducing the amended provisions in what would seem to be their proper place:

jurisdiction as it varies with respect to place, or, as an English lawyer would say, the law of venue (chapter 4):

Part II deals with proceedings of which the object is to compel the appearance of suspected persons. It contains five chapters upon the following subjects:—

- a preliminary enquiry by the Police (chapter 1);
- a complaint in order to the issue of a summons or warrant (chapter 2);
- a summons in slight cases (chapter 3);
- a warrant in cases of more importance (chapter 4);
- arrest without warrant in cases in which delay would be dangerous (chapter 5).

Part III deals with the treatment of the suspected person, whose appearance has been secured by one of the modes prescribed in Part II.

It begins by laying down the general rules that in all Criminal Courts whatever, the accused may be defended by Counsel, and that the places where inquiries and trials are held are open Courts (chapter 1).

It then points out the method of procedure in cases dealt with in a summary way by Magistrates on summons (chapter 2),

or in cases of greater importance, upon warrant, or committed for trial to the Sessions (chapter 3).

As any of the proceedings described in chapters 2 or 3 may, under certain circumstances, be conducted by Subordinate Magistrates, chapter 4 lays down the rules which are to obtain on this subject.

chapter 5 deals with trials before the Court of Session :

chapter 6 states the duties of assessors and jurors in such trials.

Part IV carries on the subject of trial by prescribing the action of the High Courts upon the Courts of first instance. This may be secured either by the act of the party, or by the act of the law, or by the act of the Court. Accordingly

chapter 1 relates to appeals, which depend upon the party :

chapter 2 relates to reference in capital cases, which is a process prescribed by the law :

chapter 3 relates to revision, which is exercised by the High Court in its discretion. As revision is carried on by means of the inspection of returns, and with reference to rules of procedure laid down by the High Court, the sections which empower it to issue such rules and call for such returns are embodied in this chapter.

The ordinary process of inquiry, trial, and final confirmation or reversal of the sentence by the High Court being now complete, the next matter to be considered is the execution of the judgment of the Court.

Accordingly, Part V deals with execution. It prescribes the mode in which warrants to execute sentences are to be issued, and lays down rules as to the levy and application of fines ; as to whipping, respecting which four sections have been transferred to this place from Act VI of 1864 ; as to the infliction of imprisonment ; the confinement of young persons in reformatories, and the execution of sentences of transportation and death. Finally, it contains a section as to pardon by which punishments may be remitted.

Part VI relates to the subject of evidence, and includes in separate chapters provisions as to general rules of evidence, the mode of taking down the evidence of witnesses, and the examination of accused persons, summonses to witnesses, and search-warrants.

Part VII relates to proceedings incidental to the inquiry and trial, the ordinary course of which has been thus provided for. These are—

bail, the formation of lists of jurors and assessors, and their attendance.

These rules are necessary to enable trials to be held by the Courts of Session. A few miscellaneous rules, which regulate the mode of disposing of property taken by the Police, warrants of commitment, the allowance of expenses of witnesses, and the employment of interpreters are contained in Part VII, chapter 3.

These are the usual incidents of inquiry and trial ; but a person under trial may be insane, or the orders of the Court may be disobeyed. Part VIII, on exceptional incidents, deals with these cases in chapter 1, which relates to lunatics, and chapter 2 which relates to contempts.

The manner of holding trials being now provided for, together with the common and exceptional processes incidental to them, the next subject is what, to borrow a phrase from English law, is called criminal pleading, that is to say, all that relates to written documents by which the questions to be tried are defined, and the result recorded.

These matters are regulated by Part IX.

chapter 1 relates to the charge or indictment ;

chapter 2 to the finding, judgment, and sentence ; and

chapter 3 to certain cases in which prosecutions cannot be instituted without the consent of specified persons. This completes that part of the Act which relates to the punishment of offences.

We come next to the provisions relating to the prevention of crime, which form the subject of Part X. They are—

security for keeping the peace (chapter 1) ;

security for good behaviour (chapter 2) ;

the abatement of nuisances (chapter 3) ;

settlement of questions about possession (chapter 4) ;

maintenance of wives and families (chapter 5).

Lastly, Part XI consists of three sections, prescribing the procedure in miscellaneous criminal cases and proceedings, and saving certain exceptional jurisdictions.

Only three important alterations have been made in the substance of the Code.

Firstly, section 47 confers summary jurisdiction on Full Power Magistrates in the Mofussil, who are also Justices of the Peace, over offences committed by European British subjects, on which a summons ordinarily issues in the first instance. It authorizes the infliction of a fine not exceeding rupees 500, and in default of payment, imprisonment for a term not exceeding two months. This is intended to replace 53 Geo. III cap. 155, section 105, Act VII of 1853, and Act XXV of 1861, section 42.

Secondly, section 176 (= section 226 of Act XXV) provides that where the accused is an European British subject, the committing Magistrate shall ask him whether he wishes to be tried by the High Court or the Court of Session. If the accused wishes to be tried by the High Court, he will be sent for trial accordingly. If he wishes to be tried by the Court of Session, the Magistrate will send the accused for trial to such one of these Courts as he thinks fit.

Thirdly, the provisions relating to the number of jurymen by whom a verdict may be given have been changed in accordance with the suggestion of the Commissioners. For the present cumbrous system, section 217 substitutes the simple rule that unanimity or a majority of not less than two-thirds with the concurrence of the Judge, shall be followed by conviction, and any other result by acquittal.

The following minor additions and alterations have been made:—

To section 17 (=section 21 of Act XXV) has been added a clause declaring that Justices of the Peace not being Magistrates shall be guided by the provisions of the Code.

Section 21 embodies Act XXIX of 1845, which gives power to appoint, in the Presidency of Bombay, Joint Sessions Judges.

Section 25 (= Act X of 1854, section 1) empowers Magistrates in charge of divisions of Districts in Bengal to receive and try certain charges unrefereed.

Sections 39 and 40 (= Act XXVIII of 1867, sections 1 and 2) validates processes signed by certain Magistrates in Petty Sessions.

Sections 48 to 54 (inclusive), as to offences in Foreign States, embody, as above remarked, the provisions of Act I of 1849. But the new sections apply only to subjects of Her Majesty and to persons who within a year before or after the commission of the offence with which they are charged have dwelt for six months within British India, and the offence must have been committed within territory included in or adjacent to some part of British India.

Section 62 (=section 32 of Act XXV) provides expressly that enquiry into the offences of thuggee and dacoity may be made in any District in which the accused happens to be when charged or arrested.

In section 108 (=section 71 of Act XXV) words have been introduced to show how the summons should be served on the accused.

To section 137 (=section 100 of Act XXV) a clause has been added empowering the Police to arrest without warrant deserters from the army. This is now the law in the Bombay Presidency, but not, apparently, elsewhere in British India.

In section 172 (=the second sentence of section 250 of Act XXV) words have been introduced showing that the Magistrate must be competent to try the offence and think he ought to try it.

To section 209 (=section 346 of Act XXV) a clause has been added requiring in all cases the jurors to be sworn.

Section 266 provides for the case of a sentenced prisoner being ill or pregnant. The new clause is modelled on Bombay Regulation XIV of 1827, section 3, clause 2.

Section 292 empowers the Local Governments to direct the evidence of complainants to be taken down in the Magistrate's vernacular. The corresponding section (196) of Act XXV applies only to the evidence of witnesses.

In section 352 (=section 329 of Act XXV) power is given to the Local Government to appoint an officer (other than the Collector) to make out the list of jurors and assessors.

To section 449 (=section 301 of Act XXV), which provides that, in default of giving security for good behaviour, the defaulter shall be committed to prison, a clause has been added providing that the imprisonment may be rigorous or simple, as the Court of Session in each case directs.

To section 457 (=section 69 of Act XXV, as to injunctions against public nuisances) has been added a clause expressly barring appeals against orders under that section.

Section 465 (= section 315 of Act XXV) saves Bombay Act VIII of 1867, section 16.

Section 466 (= section 318 of Act XXV) is extended to cases in which the disputing parties are in joint possession.

Section 469 (= Bengal Regulation XI of 1824, sections 2 and 3) provides for making local inquiries in order to determine boundary-disputes.

Various minor changes in wording, &c., have been made. Chapter XXIV has been omitted as useless; and certain recommendations of the Indian Law Commissioners have been reserved for careful consideration in Committee.

SIMLA
The 27th August 1870. }

J. F. STEPHEN.

WHITLEY STOKES,
Secretary to the Govt. of India.

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 9th December 1870, and was referred to a Select Committee with instructions to make their report thereon in a month :—

No. 34 of 1870.

THE INDIAN PAPER CURRENCY BILL, 1870.

CONTENTS.

PREAMBLE.

Section.

I.—Preliminary.

1. Short title.
Local extent.
Commencement.
2. Acts repealed.

II.—The Department of Issue.

3. Functions of Department of Issue.
4. Head Commissioner.
Commissioners at Madras and Bombay.
5. Power to establish Circles of Issue.
6. Deputy Commissioners.
7. Subordination of Commissioners and Deputy Commissioners.
8. Appointment, suspension, and removal of officers.

III.—Supply and Issue of Notes.

9. Head Commissioner to provide and distribute notes.
Notes where payable.
10. Signatures to notes.
11. Issue of notes for silver.
Proviso.
12. Issue of notes for gold.
13. Expense of melting and assaying bullion received for notes.
Loss of weight.
14. Certificates for bullion.
Contents of certificate.
15. Notes where legal tender.

IV.—Reserve.

16. Bullion received for notes to be kept as a reserve.
Except amount fixed as minimum limit of circulation.
17. Investment of such amount.
Appropriation of coin, bullion and securities.
Sale or exchange of bullion and foreign coin.
18. Trustees of securities purchased under Act.
19. Power to sell such securities.
Power to replace them.
20. Interest on such securities to be entered in a separate account.
"Profits of Notes Circulation."
Annual account.

V.—Miscellaneous.

21. Monthly abstracts of accounts.
22. Description of notes in indictments.
23. Prohibition of issue of private bills or notes payable to bearer on demand.
Exception in favour of cheques.
24. Penalty for issuing such bills or notes.
25. Supplementary powers of the Government of India.

A BILL TO CONSOLIDATE THE LAW RELATING TO THE GOVERNMENT PAPER CURRENCY.

WHEREAS it is expedient to consolidate the law relating to the Government Paper Currency; It is enacted as follows:—

I.—Preliminary.

Short title.

1. This Act may be called "The Indian Paper Currency Act, 1870."

Local extent.

It extends to the whole of British India;

Commencement.

And it shall come into force on the passing thereof.

Acts repealed.

2. The Acts mentioned in the schedule hereto annexed are repealed.

All appointments made, rules prescribed, circles of issue established, notifications published, and notes issued under any such Act shall be deemed to be respectively made, prescribed, established, published and issued under this Act.

II.—The Department of Issue.

3. There shall continue to be a Department of the public service, to be called the Department of Issue, whose function shall be the issue of promissory notes of the Government of India payable to bearer on demand, for such sums, not being less than ten rupees, as the Governor General in Council from time to time directs.

Head Commissioner.

4. At the head of such Department shall be an officer called the Head Commissioner of the Department of Issue, and two other officers, called, respectively, the Commissioner of the Department of Issue at Madras and the Commissioner of the Department of Issue at Bombay.

Power to establish Circles of Issue.

5. The Governor General in Council may from time to time, by order published in the *Gazette of India*, establish Districts, to be called Circles of Issue, three of which circles shall include the Towns of Calcutta, Madras and Bombay, respectively,

appoint in each circle some one city or town to be the place of issue of notes, as hereinafter provided,

establish in such city or town an Office or Offices of Issue, and

declare that, for the purposes of this Act, any such city or town (other than Calcutta, Madras or Bombay) shall be deemed to be situate within such Presidency as is specified in the order.

6. For each Circle of Issue other than those which include the Towns of Calcutta, Madras and Bombay, there shall be an officer called the Deputy Commissioner of Issue.

7. For the purposes of this Act, the Commissioners at Madras and Bombay shall be subordinate to the Head Commissioner:

the Deputy Commissioners in the Presidency of Fort William in Bengal shall be subordinate to the Head Commissioner; and

the Deputy Commissioners in the Presidencies of Fort St. George and Bombay shall be subordinate to the Commissioners of Madras and Bombay, respectively.

8. All officers under this Act shall be appointed, and may be suspended or removed, by the Governor General in Council.

III.—Supply and Issue of Notes.

9. The Head Commissioner of Issue shall provide promissory notes of the Government of India payable to bearer on demand, of the denominations prescribed under this Act, and shall supply the Commissioners at Madras and Bombay, and the several Deputy Commissioners with such notes as they require for the purposes of this Act.

All such notes shall bear upon them the name of the city or town from which they are severally issued, and shall be payable only—

at the Office or Offices of Issue of such city or town, and

at the presidency town of the Presidency within which such city or town is situate.

10. The name of the Head Commissioner, of either of the Commissioners, of a Deputy Commissioner, or of some other person authorized by the said Head Commissioner, or by either of the said Commissioners, to sign notes issued under this Act, shall be subscribed to every such note, and may be impressed thereon by machinery.

Names so impressed shall be taken to be valid signatures to all intents and purposes.

11. The Head Commissioner, the Commissioners, and the Deputy Commissioners shall, in their respective Circles of Issue, on the demand of any person, issue from the Office or Offices of Issue established in their respective Circles, promissory notes of the denominations prescribed under this Act, on the terms following:—

First, in exchange for the amount thereof in current silver coin of the Government of India; or,

Secondly, in exchange for the amount thereof in silver bullion or foreign silver coin at the rate of nine hundred and seventy-nine rupees per thousand tolas of silver fit for coinage and of the standard fineness prescribed by the Indian Coinage Act, 1870:

Provided that in all places where there is no Mint of the Government of India, any such Head Commissioner, Commissioners, and Deputy Commissioners, may refuse to issue notes in exchange for silver bullion or foreign coin under this section.

12. The Governor General in Council may from time to time, by order published in the *Gazette of India*, direct that notes to an extent to be specified in the order, not exceeding one-fourth of the total amount of issues represented by coin and bullion as herein provided, shall be issued at such Offices of Issue as are named in the order, in exchange for gold coin of full weight of the Government of India or for foreign gold coin or gold bullion, at the rates and according to the rules and conditions fixed by such order.

13. The Head Commissioner, Commissioners, and Deputy Commissioners may require any bullion or foreign coin received under section eleven or section twelve, to be melted and assayed. Any loss of weight caused by such melting or assay shall be borne by the person tendering the bullion or coin.

14. Every person so tendering bullion or foreign coin and depositing it in any Office of Issue shall, after the expiration of the time necessary for melting and assaying the same, be entitled to receive therefor a certificate signed by the person authorized to issue the notes aforesaid.

Contents of certificate. Such certificate shall—

- (a) acknowledge the receipt of such bullion or foreign coin,
- (b) state the amount of promissory notes of the Government of India, or of such notes and cash, to which the holder is entitled in exchange for such bullion or coin,
- (c) state the interval on the expiration of which, if the certificate be presented to such office, the holder shall be entitled to receive such amount.

15. Within any of the said Circles of Issue a note issued under this Act from any Office of Issue in such Circle, shall be a legal tender to the amount expressed in such note, in payment or on account of—

any revenue or other claim to the amount of ten rupees and upwards due to the Government of India,

any sum of ten rupees and upwards due by the Government of India, or by any body corporate or person in British India :

Provided that no such note shall be deemed to be a legal tender by the Government of India at any Office of Issue.

IV.—Reserve.

16. The whole amount of the coin and bullion received under this Act for notes to be kept as a reserve, shall be retained and secured as a reserve to pay such notes, with the exception of such an amount, not exceeding sixty millions of rupees, as the Governor General in Council, with the consent of the Secretary of State for India, from time to time fixes.

17. The amount so fixed shall be published in the *Gazette of India* and the whole or such part thereof as the Governor General in Council from time to time fixes shall be invested in securities of the Government of India: the said coin, bullion, and securities shall be appropriated and set apart to provide for the satisfaction and discharge of the said notes; and the said notes shall be deemed to have been issued on the security of the coin, bullion, and securities so appropriated and set apart, as well as on the general credit of the Government:

Provided that any silver bullion or foreign coin received under this Act may be sold or exchanged for silver coin of the Government of India, and that any gold coin or bullion received under this Act may be sold or exchanged for silver coin or bullion to be so appropriated and set apart instead of the gold coin or bullion.

For the purposes of this section, silver bullion and coin shall be rated at ninety-eight rupees per hundred tolas, and gold bullion and coin at the rates fixed by the Governor General in Council under section twelve.

18. The Government securities so purchased shall be held by the Head Commissioner and the Master of the Mint at Calcutta, in trust for the Secretary of State for India in Council.

19. The Head Commissioner may, at any time when ordered so to do by the Governor General in Council, sell and dispose of any portion of the above-mentioned limited amount of Government securities.

For the purpose of effecting such sales, the Master of the Mint at Calcutta shall, on a request in writing from the Head Commissioner, at all times sign and endorse such Government securities, and the said Head Commissioner, if so directed by the Governor General of India in Council, may purchase Government Securities to replace such sales.

20. The interest accruing due on the securities purchased and held under this Act shall be entered in a separate account, to be annually rendered by the

Head Commissioner to the Governor General in Council.

The amount of such interest shall from time to time, as it becomes due, be paid to the credit of the Government of India, under the head of "Profits of Notes Circulation," and an account showing the amount of such profits and of the charges and expenses incidental thereto, shall be made up and published annually in the *Gazette of India*.

V.—Miscellaneous.

21. An abstract of the accounts of the Department of Issue showing—
Monthly abstracts of accounts, the whole amount of notes in circulation, the amount of coin and bullion reserved, distinguishing gold from silver, and the amount of the Government Securities held by the said Department, shall be made up monthly in Calcutta, and published as soon as may be in the *Gazette of India*.

22. All notes issued under this Act shall be deemed to be promissory notes of the Government of India, and may be described as promissory notes of the Government of India in all indictments, and in criminal and civil proceedings.

23. No body corporate or person in British India shall draw, accept, make or issue any bill of exchange, hundí, promissory note or engagement for the payment of money payable to bearer on demand, or borrow, owe, or take up any sum or sums of money on the bills, hundís or notes payable to bearer on demand, of any such body corporate or of any such person:

Provided that cheques or drafts payable to bearer on demand or otherwise, may be drawn on bankers, shroffs, or agents, by their customers or constituents, in respect of deposits of money in the hands of such bankers, shroffs, or agents, and held by them at the credit and disposal of the persons drawing such cheques or drafts.

24. Any body corporate or person committing any offence under section twenty-three shall, on conviction before a Magistrate, be liable to a penalty to the amount of the bill, hundí, note or engagement in respect whereof the offence is committed.

Every prosecution under this section shall be instituted by the Head Commissioner, Commissioner, or Deputy Commissioner, as the case may be, of the Circle of Issue in which such bill, hundí, note or engagement is drawn, accepted, made or issued.

Supplementary Powers.

Supplementary powers of the Government of India.

25. The Governor General in Council may from time to time, by notification in the *Gazette of India*—

(1) fix the amounts (not being less than ten rupees) for which notes shall be issued under this Act,

(2) alter the limits of any of the said Circles of Issue,

(3) declare the places at which notes shall be issued under this Act,

(4) fix the rates, rules and conditions at and according to which gold may be taken in exchange for Government promissory notes,

(5) fix the charge for melting and assaying bullion and foreign coin received for Government promissory notes,

(6) fix the interval on the expiration of which holders of certificates under section fourteen shall be entitled to receive Government promissory notes,

(7) regulate any matters relative to Paper Currency which are not provided for by this Act,

(8) revoke or alter any notification previously made under this Act.

Every such notification shall come into force on the day therein in that behalf mentioned, and shall have effect as if it were enacted in this Act:

Provided that no notification under clause four of this section shall have effect until six months have elapsed from the date of its appearance in the *Gazette of India*.

SCHEDULE.

Number and year of Act.	Title.
XIX of 1861 ...	An Act to provide for a Government Paper Currency.
XXIV of 1861 ...	An Act to enable the Banks of Bengal, Madras and Bombay to enter into arrangements with the Government for managing the issue, payment and exchange of Government Currency Notes and certain business hitherto transacted by the Government Treasuries.
I of 1866 ...	An Act to amend Act XIX of 1861 (to provide for a Government Paper Currency.)
XXX of 1867 ...	An Act to amend Act XIX of 1861 (to provide for a Government Paper Currency.)
XV of 1870 ...	An Act for the further amendment of Act No. XIX of 1861.

STATEMENT OF OBJECTS AND REASONS.

The primary object of this Bill is to consolidate the law relating to the Government Paper Currency, which is now contained in four Acts, XIX of 1861, I of 1866, XXX of 1867, and XV of 1870. The opportunity has been taken to repeal the obsolete Act XXIV of 1861, and to improve the arrangement and wording of the existing law.

R. TEMPLE.

The 19th November 1870.

WHITLEY STOKES,
Secy. to the Govt. of India.

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CALCUTTA, SATURDAY, DECEMBER 17, 1870.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART V.

Bills introduced into the Council of the Governor General for making Laws and Regulations, or published under Rule 19.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

THE following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 2nd December 1870, and was referred to a Select Committee with instructions to make their report thereon in two months :—

No. 27 of 1870.

THE INDIAN LIMITATION BILL, 1871.

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Preamble.

Sections.

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1. Short title.
Local extent.
Commencement.
Act not retrospective.
2. Repeal of enactments.
3. Interpretation-clause.

II.—Limitation of Suits.

4. Dismissal of suits instituted after period of limitation.
5. Proviso where Court is closed when period expires.
Proviso as to appeals and applications for review.
Appeals once admitted not to be dismissed as late.
6. Shorter period limitation prescribed by local laws.
7. Legal disability.
8. Disability of one joint-creditor.
9. Continuous running of time.

III.—Computation of Period of Limitation.

10. Exclusion of day on which right to sue accrues.
Exclusions in case of civil appeals and certain applications.

Sections.

11. Exclusion of time of defendant's absence from British India.
12. Exclusion of time of suing *bona fide* in wrong Court.
13. Exclusion of time during which commencement of suit is stayed by injunction.
14. Exclusion of time during which judgment-debtor sues to set aside execution-sale.
15. Effect of death before right to sue accrues.
16. Effect of fraud.
17. Effect of acknowledgment in writing.
18. Effect of substituting or adding new plaintiff or defendant. Proviso where original defendant dies.
19. Computation where there are successive breaches of contract. Computation where the breach is continuing. Continuing nuisance.
20. Suit for compensation for lawful act becoming unlawful.
21. Decree directing payment by instalments.
22. Time mentioned in Native instruments.

IV.—Adverse Possession and Prescription.

23. What constitutes adverse possession.
24. Relations affecting adverse possession.
25. Title by prescription.

F.—Miscellaneous.

26. Suits against express trustees and their representatives.
27. Foreign limitation-law.
28. Suits on foreign contracts.

First Schedule (Enactments repealed).

Second Schedule (suits, appeals and applications).

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A BILL FOR THE LIMITATION OF SUITS.

Preamble. WHEREAS it is expedient to consolidate and amend the law relating to the limitation of suits, appeals and certain applications to Courts; It is hereby enacted as follows:—

I.—Preliminary.

1. This Act may be called 'The Indian Limitation Act, 1871.'

Local extent. It extends to the whole of British India;

Commencement. And it shall come into force on the first day of March 1871:

But nothing herein contained applies to suits in which the right to sue accrued before that day, or to applications to execute decrees or orders then in force.

2. The enactments mentioned in the first schedule hereto annexed are repealed to the extent specified in the third column of the same schedule.

3. In this Act, unless there be something repugnant in the subject or context—

'plaintiff' includes any person through whom a plaintiff claims:

'bill of exchange' includes a hundi:

'trustee' does not include a benamidar, a mortgagee remaining in possession after the mortgage has been satisfied, or a wrong-doer in possession without title:

'registered' means duly registered under the law for the registration of assurances in force at the time and place of executing the instrument referred to in the context;

and nothing shall be deemed to be done in 'good faith' which is not done with due care and attention.

II.—Limitation of Suits.

4. Subject to the provisions contained in sections five to twenty-six (inclusive), every suit instituted, appeal presented, and application made after the period of limitation prescribed therefor by the second schedule hereto annexed, shall be dismissed, although limitation has not been set up as a defence.

Explanation.—A suit is instituted in ordinary cases when the plaint is presented to the proper officer: in the case of a pauper, when his application for leave to sue as a pauper is filed; and in the case of a claim against a company which is being wound up by the Court, when the claimant first sends in his claim to the official liquidator.

5. Provided—

(a) that if the period of limitation prescribed for any suit, appeal or application expires on a day when the Court is closed, the suit, appeal or application may be instituted, presented or made on the day that the Court re-opens:

(b) that any appeal or application for a review of judgment may be admitted after the period of limitation prescribed therefor,

when the appellant or applicant satisfies the Court that he had sufficient cause for not presenting the appeal or making the application within such period; and

(c) that no Court, after admitting and registering an appeal, shall dismiss it on the ground that it was not presented within the prescribed period.

6. When, by any law now or hereafter to be in force in any part of British India, a period of limitation shorter than that prescribed by this Act is specially prescribed for a particular class of suits or appeals, nothing herein contained shall affect such law.

Legal Disability.

Legal disability.

7. If a person entitled to sue be, at the time the right to sue accrued,

- 1st, within the age of eighteen years;
- 2nd, insane; or
- 3rd, an idiot;

he may institute the suit within the same period after the disability has ceased, or (when he is at the time of the accrual affected by two disabilities) after both disabilities have ceased, as would otherwise have been allowed from the time prescribed therefor in the third column of the second schedule hereto annexed.

When his disability continues up to his death, his representative in interest may institute the suit within the same period after the death as would otherwise have been allowed from the time prescribed therefor in the third column of the same schedule.

Nothing in this section shall be deemed to extend, for more than three years from the cessation or death, the period within which the suit must be brought.

8. When one of several joint creditors or claimants is under any such disability, and when a discharge can be given without the concurrence of such person, time will run against them all: but where no such discharge can be given, time will not run as against any of them until they all are free from disability.

9. When once time has begun to run, no subsequent disability or inability to sue stops it.

III.—Computation of Period of Limitation.

10. In computing the period of limitation prescribed for any suit, the day on which the right to sue accrued shall be excluded.

In computing the period of limitation prescribed for an appeal under the Code of Civil Procedure, an application for leave to appeal as a pauper, and an application to the High Court for

the admission of a special appeal, the day on which the judgment complained of was pronounced, and the time requisite for obtaining a copy of the decree appealed against, shall be excluded.

11. In computing the period of limitation prescribed for any suit, the time during which the defendant has been absent from British India shall be excluded, unless service of a summons to appear and answer in the suit can, during such absence, be made under the Code of Civil Procedure, section sixty.

12. In computing the period of limitation prescribed for any suit, the time during which the plaintiff has been prosecuting with due diligence another suit, whether in a Court of first instance or in a Court of appeal, against the same defendant or some person whom he represents, shall be excluded, where the last-mentioned suit is founded upon the same right to sue, and is instituted in good faith in a Court not having jurisdiction to try it.

Explanation 1.—In excluding the time during which a former suit was pending, the day on which that suit was instituted, and the day on which the proceedings therein ended, shall both be counted.

Explanation 2.—A plaintiff resisting an appeal presented on the ground of want of jurisdiction, shall be deemed to be prosecuting a suit within the meaning of this section.

13. In computing the period of limitation prescribed for any suit, the commencement of which has been stayed by injunction, the time of the continuance of the injunction shall be excluded.

14. In computing the period of limitation prescribed for a suit for possession by a purchaser at a sale in execution of a decree, the time during which the judgment-debtor has been prosecuting a suit to set aside the sale shall be excluded.

15. When a person who would, if he were living, have a right to sue, dies before the right accrues, the period of limitation shall be computed from the time when there is a representative in interest of the deceased.

When a person against whom, if he were living, a right to sue would have accrued, dies before the right accrues, the period of limitation shall be computed from the time when there is a representative whom the plaintiff may sue.

16. When any person having a right to sue has, by means of fraud, been kept from the knowledge of such right or of the title on which it is founded,

and where any document necessary to establish such right has been fraudulently concealed,

the time limited for commencing a suit,

(a) against the person guilty of the fraud or accessory thereto, or,

(b) against any person claiming through him otherwise than in good faith and for a valuable consideration,

shall be computed from the time when the fraud first became known to the person injuriously affected thereby, or in the case of the concealed document, when he first had the means of producing it or compelling its production.

17. No acknowledgment or promise in respect

Effect of acknowledgment in writing.

of a debt or legacy shall take the case out of the operation of this Act, unless such acknowledgment or promise is contained in some writing signed by the party to be charged therewith.

When such writing exists, a new period of limitation, according to the nature of the original liability, shall be computed from the time when the acknowledgment or promise was signed: Provided that, where more partners, executors, or other persons than one are liable, none of them shall become chargeable by reason only of a written acknowledgment or promise signed by another of them.

When the writing containing the acknowledgment or promise is undated, oral evidence may be given of the time when it was signed. But when it is alleged to have been destroyed or lost, oral evidence of its contents shall not be received.

Explanation.—For the purposes of this section, an acknowledgment or promise may be sufficient, though it omits to specify the exact amount of the debt or legacy, or avers that the time for payment or delivery has not yet come, or sets up limitation as a bar, or is accompanied by a refusal to pay or deliver, or is coupled with a claim to a set-off, or is addressed to any person other than the creditor or legatee.

Illustrations.—Z, a bond-debtor, himself writes a letter promising to pay the debt to his creditor A. Z affixes his seal, but does not sign the letter:

He pays part of the debt and promises orally to pay the rest:

He pays interest on the debt:

He pays part of the debt, and signs a memorandum of the part-payment:

Z's agent writes and signs a letter to A, promising to pay the debt:

Z publishes an advertisement, requesting his creditors to bring in their claims for examination:

In none of these cases is the debt taken out of the operation of this Act.

18. When, after the institution of a suit, a new

Effect of substituting or adding new plaintiff or defendant.

plaintiff or defendant is substituted or added, the period of limitation applicable to such suit shall, as regards him, be computed up to the time when he was so made a party:

Provided that when a defendant dies, and the suit is continued against his representatives in interest, it shall, as regards them, be deemed to have been commenced when it was instituted against the deceased defendant.

Proviso where original defendant dies.

19. In the case of a suit for the breach of a contract, where there are successive breaches, a fresh right to sue arises, and a fresh period of limitation begins to run, upon every fresh breach; and where the breach is a continuing breach, a fresh right to sue arises, and a fresh period of limitation begins to run, at every moment of the time during which the breach continues.

Computation where there are successive breaches of contract.

Computation where the breach is continuing.

In the case of a continuing nuisance a fresh right to sue arises, and a fresh period of limitation begins to run, at every moment of the time during which the nuisance continues.

Continuing nuisance.

Illustration (a).—A contracts to pay an annuity to B for his life by quarterly instalments. A fails to pay any of the instalments. Here upon every fresh failure, a fresh right to sue arises and a fresh period of limitation begins to run; and this Act may bar the remedy on the earlier breaches without affecting the remedy on the later breaches.

Illustration (b).—A, a tenant, covenants with B, his landlord, to keep certain buildings in repair. At every moment of the time during which the buildings continue out of repair and B retains his right of entry, a fresh right to sue arises and a fresh period of limitation begins to run.

Illustration (c).—A diverts B's watercourse. At every moment of the time during which the diversion continues and B retains his right of entry, a fresh right to sue arises and a fresh period of limitation begins to run.

20. In the case of a suit for compensation for an act lawful in itself, which becomes unlawful in case it causes damage, the period of limitation shall be computed from the time when the damage accrues.

Suit for compensation for lawful act becoming unlawful.

When the damage done by such act is of a continuing nature, the period of limitation shall be computed from the time when such damage ceases.

Illustration (a).—A owns the surface of a field. B owns the subsoil. B digs coal thereout without causing any immediate apparent injury to the surface, but at last the surface subsides. The period of limitation runs from the time of the subsidence.

Illustration (b).—A digs a canal on his own land and thereby causes a stream of water to flow against his neighbour's wall and gradually to undermine it, so that at last the wall falls. The period of limitation runs from the time of the falling.

21. When a decree directs payment to be made by instalments at specified dates, for the purpose of computing the time within which application may be made to enforce each instalment, the date when it becomes due shall be deemed the date of the decree.

Decree directing payment by instalments.

22. In the absence of evidence to the contrary, an instrument made by a Native shall, for the purposes of this Act, be deemed to be

Time mentioned in Native instruments.

made with reference to the calendar ordinarily employed by him.

*Illustration (a).—*A Hindú makes a promissory note bearing a Native date only, and payable four months after date. There is no evidence as to the calendar to which he referred. In computing the period of limitation applicable to a suit on the note, the four months shall be computed according to the Native calendar ordinarily used by the maker.

*Illustration (b).—*A Hindú makes a bond, bearing a Native date only, for the repayment of money within one year. There is no evidence as to the calendar to which he referred. The year shall be computed according to the Native calendar ordinarily used by the obligor.

IV.—Adverse Possession and Prescription.

23. For the purpose of constituting an adverse possession by a person claiming title, land is deemed to have been possessed and occupied

(1) where it has been usually cultivated or improved,

(2) where it has been protected by a substantial enclosure,

(3) where buildings have been erected upon it, or

(4) where it has been used for the supply of fuel, timber, minerals, wax, honey, lac, juice of trees and the like, or for the purposes of husbandry, or otherwise for the benefit of the occupant;

and an hereditary office is deemed to have been possessed when the profits thereof have been usually received.

24. When the relation of landlord and tenant, principal and agent, or master and servant has existed between any persons, the

possession of the tenant, agent, or servant is deemed the possession of the landlord, principal, or master until the expiration of twelve years from the termination by the landlord, principal, or master of the tenancy, agency or service. But such presumption cannot be made after the periods herein limited.

Prescription.

25. Adverse, uninterrupted possession for the period hereby limited in the case of any suit for the recovery of property confers a title thereto, which is sufficient against all.

V.—Miscellaneous.

26. Notwithstanding anything hereinbefore contained, no suit against a person to whom property has been conveyed in trust for specific purposes, and no suits against his representatives, for the purpose of following in his or their hands such property, shall be barred by any length of time.

27. No foreign rule of limitations shall be a defence to a suit in British India on a contract entered into in a foreign country, unless the rule has extinguished the contract, and the parties were living in such country when the extinction took place.

28. Suits in British India on contracts entered into in a foreign country are subject to the rules prescribed by this Act.

FIRST SCHEDULE.

(See section 2.)

Number and year.	Subject or title.	Extent of repeal.
21 Jac. I, cap. sixteen ...	An Act for limitation of actions and for avoiding of suits in law.	The whole Statute.
4 Ann, cap. sixteen ...	An Act for the amendment of the law and the better advancement of justice.	Sections seventeen, eighteen and nineteen.
53 Geo. III, cap. one hundred and fifty-five.	An Act for continuing in the East India Company, for a further term, the possession of the British territories in India, together with certain exclusive privileges; for establishing further Regulations for the government of the said territories, and the better administration of justice within the same; and for regulating the trade to and from the places within the limits of the said Company.	Section one hundred and twenty-four, so far as it applies to British India.
6 & 7 Vic., cap. ninety-four ...	Foreign Jurisdiction Act ...	Section seven, so far as it applies to British India.
Act No. XI of 1841 ...	Military Courts of Requests ...	The proviso in section nine.
Act No. XII of 1855 ...	An Act to enable Executors, Administrators or Representatives to sue and be sued for certain wrongs.	In section one, the words "and provided such action shall be brought within one year after the death of such person," and the words "and so as such action shall be commenced within two years after the committing of the wrong."
Act No. XIII of 1855 ...	An Act to provide compensation to families for loss occasioned by the death of a person caused by actionable wrong.	In section two, the words "and that every such action shall be brought within twelve calendar months after the death of such deceased person."
Act No. XXV of 1857 ...	Forfeiture for mutiny ...	Section nine.
Act No. VIII of 1859 ...	The Code of Civil Procedure ...	In section one hundred and nineteen, the words "within a reasonable time not exceeding thirty days after any process for enforcing the judgment has been executed," and the words "within thirty days from the date of the judgment." In section two hundred and thirty, the words "within one month from the date of the dispossession." In section two hundred and thirty-one, the words "within one month from the date of

FIRST SCHEDULE—continued.

Number and year.	Subject or title.	Extent of repeal.
		the dispossession." The last twelve words of section two hundred and forty-six. In section two hundred and fifty-six, the words "at any time within thirty days from the date of the sale." In section two hundred and sixty-nine, the words "if made within one month from the date of such existence or obstruction, or of such dispossession as the case may be." In section three hundred and twenty-four, the second sentence. In section three hundred and twenty-seven, the words "within six months from the date of the award." In section three hundred and thirty-three, from and including the words "within the period" down to the end of the section. In section three hundred and forty-seven, the words "within thirty days from the date of the dismissal." In section three hundred and seventy-three, the words "within the period prescribed for the presentation of a memorandum of appeal." Section three hundred and seventy-seven.
Act No. IX of 1859	Forfeited property	The proviso in section twenty.
Act No. XIV of 1859	An Act to provide for the limitation of suits.	The whole Act, except so much of section fifteen as does not relate to the limitation of suits.
Act No. IX of 1860	Workmen and employers	So much of section two as relates to the limitation of suits.
Act No. XXXI of 1860	Arms Act	So much of section forty-nine as relates to the limitation of suits.
Act No. V of 1861	Mofussil Police	So much of section forty-two as relates to the limitation of suits.
Act No. XXIII of 1861	Civil Procedure Code Amendment	Section twelve.
Act No. I of 1863	Civil Courts in British Burma	Section twenty-four.
Act No. VI of 1863	Consolidated Customs Act	So much of section two hundred and fourteen as relates to the limitation of suits.
Act No. XXIII of 1863	Claims to Waste-lands	So much of section five as relates to the limitation of suits.

FIRST SCHEDULE—concluded.

Number and year.	Subject or title.	Extent of repeal.
Act No. VII of 1865 ...	Government Forests Act ...	So much of section sixteen as relates to the limitation of suits.
Act No. XX of 1866 ...	Registration Act ...	Section fifty-one.
Act No. XIV of 1868 ...	Contagious Diseases Act ...	So much of section twenty-five as relates to the limitation of suits.
Act No. XX of 1869 ...	Volunteers ...	So much of section twenty-two as relates to the limitation of suits.
Act No. X of 1870 ...	Land Acquisition ...	So much of section fifty-eight as relates to the limitation of suits.
Bombay Regulation V of 1827...	A Regulation defining the Limitations, as to Time, within which Civil Actions may be prosecuted, and containing Rules of Judication respecting written Acknowledgments of Debts executed without receipt of a full consideration; also regarding Interest, the tendering payment of Debts, and the disposal of Property mortgaged or pledged.	Section one, clause one.

SECOND SCHEDULE.

(See section 4.)

Description of suit.	Period of limitation.	Time when period begins to run.
1.—Application to set aside an award.	<i>Part I.—Ten days.</i> Ten days ..	When the award is submitted to the Court.
1A.—Complaint, under the Cattle-trespass Act, of an illegal seizure.	Ditto ..	The date of the seizure.
2.—Suit to contest an award of the Board of Revenue under Act No. XXIII of 1863 (to provide for the adjudication of claims to waste-lands).	<i>Part II.—Thirty days.</i> Thirty days ...	The date of the award.
3.—Appeal under the Code of Civil Procedure to the Court of a District Judge.	Ditto ...	The date of the decree appealed against.
3A.—Appeal under the Code of Criminal Procedure to any Court other than the High Court.	Ditto ...	The date of the sentence or order appealed against.
4.—Application by a plaintiff for an order to set aside a judgment by default.	Ditto ...	The date of the judgment.
5.—Application by a defendant for an order to set aside a judgment <i>ex parte</i> .	Ditto ...	The date of executing any process for enforcing the judgment.

SECOND SCHEDULE—continued.

Description of suit.	Period of limitation.	Time when period begins to run.
	<i>Part II.—Thirty days,—concluded.</i>	
6.—Application under the Code of Civil Procedure, section two hundred and thirty.	Thirty days ...	The date of the dispossession.
7.—Application to set aside a sale in execution of a decree, on the ground of irregularity in the publishing or conducting the sale.	Ditto ...	The date of the sale.
8.—Application complaining of resistance or obstruction to delivery of possession of immoveable property sold in execution of a decree, or of dispossession in the delivery of possession to the purchaser of such property.	Ditto ...	The date of the resistance, obstruction, or dispossession.
9.—Application for re-admission of an appeal dismissed for want of prosecution.	Ditto ...	The date of the dismissal.
	<i>Part III.—Sixty days.</i>	
9 A.—Appeal to the High Court under the Code of Criminal Procedure.	Sixty days ...	The date of the sentence or order appealed against.
	<i>Part IV.—Ninety days.</i>	
10.—Suit for an act done in pursuance of any enactment in force for the time being in British India.	Ninety days ...	When the act was done.
11.—Appeal to the High Court under the Code of Civil Procedure.	Ditto ...	The date of the decree appealed against.
12.—Application for leave to appeal as a pauper.	Ditto ...	Ditto.
13.—Application to a High Court for the admission of a special appeal.	Ditto ...	Ditto.
14.—Application for a review of judgment.	Ditto ...	The date of the decree.
	<i>Part V.—Six Months.</i>	
15.—Suit under Act No. XIV of 1859 (to provide for the limitation of suits), section fifteen, to recover possession of immoveable property.	Six months ...	When the dispossession occurs.
16.—Claim under Act No. IX of 1860 (to provide for the speedy determination of certain disputes between workmen engaged in Railway and other public works and their employers), section one.	Ditto ...	When the wages, hire, or price of work claimed accrued due.
17.—Suit under Act No. V of 1866 (to provide a summary procedure on bills of exchange, and to amend, in certain respects, the commercial law of British India.)	Ditto ...	When the bill or promissory note becomes due and payable.
18.—Application under the Code of Civil Procedure, section three hundred and twenty-seven, that an award be filed in Court.	Ditto ...	The date of the award.

SECOND SCHEDULE—continued.

Description of suit.	Period of limitation.	Time when period begins to run.
	<i>Part VI.—One Year.</i>	
19.—Suit upon a Statute, Act or Regulation for a penalty or forfeiture.	One year ...	When the penalty or forfeiture is incurred.
20.—Suit for the wages of a domestic servant, artisan or labourer not provided for by No. 16.	Ditto ...	When the wages sued for accrue due.
21.—Suit for the amount of a tavern-bill, or of a bill for board and lodging, or for lodging only.	Ditto ...	When the bill is delivered.
22.—Suit to enforce a right of pre-emption, whether the right is founded on law, or general usage, or on special contract.	Ditto ...	When the purchaser takes actual possession under the sale sought to be impeached.
23.—Suit for infringing copyright.	Ditto ...	The date of the infringement.
24.—Suit for property seized under Act No. XXV of 1857 (<i>to render officers and soldiers in the Native Army liable to forfeiture of property for mutiny</i>), or for the restoration or recovery of such property, or its proceeds.	Ditto ...	When the property is seized.
25.—Suit by executors, administrators, or representatives under Act No. XII of 1855 (<i>to enable executors, administrators or representatives to sue and be sued for certain wrongs</i>), or under Act No. XIII of 1855 (<i>to provide compensation to families for loss occasioned by the death of a person caused by actionable wrong</i>).	Ditto ...	The date of the death of the person wronged or killed.
26.—Suit for the recovery of the person of a wife.	Ditto ...	When possession is demanded and refused.
27.—Suit for the restitution of conjugal rights.	Ditto ...	When restitution is demanded and refused.
28.—Suit to set aside any of the following sales :— (a) sale in execution of a decree of a Civil Court not established by Royal Charter ; (b) sale in pursuance of a decree or order of a Collector or other officer of revenue ; (c) sale for arrears of Government revenue or for any demand recoverable as such arrears ; and (when the suit is brought by a patnidār or a person claiming under a patnidār) sale of a patni tāluq sold for current arrears of rent.	Ditto ...	The time that the sale is confirmed, or would otherwise have become final and conclusive had no such suit been brought.
<i>Explanation.</i> —In this clause 'patni' includes any intermediate tenure saleable for current arrears of rent, and 'patnidār' includes the proprietor of such tenure.		

SECOND SCHEDULE—continued.

Description of suit.	Period of limitation.	Time when period begins to run.
<i>Part VI.—One year, —concluded.</i>		
29.—Suit to alter or set aside a summary decision or order of a civil court not established by Royal Charter.	One year ...	The date of the final decision or order in the case by a court competent to determine it finally.
30.—Suit by a person dispossessed under an execution-sale to have his rights declared and for recovery of possession.	Ditto ...	The date of the dispossession.
31.—Suit against Government to set aside any attachment, lease or transfer of immoveable property by the revenue authorities for arrears of Government revenue.	Ditto ...	When the attachment, lease or transfer is made.
32.—Suit against Government to recover money paid under protest in satisfaction of a claim made by the revenue authorities on account of arrears of revenue or on account of demands recoverable as such arrears.	Ditto ...	When the payment is made.
33.—Suit against Government for compensation for land acquired for public purposes, or for compensation when the acquisition is not completed.	Ditto ...	The date of determining the amount of the compensation, or the date of the refusal to complete.
33A.—Application for the execution of a decision (other than a decree or order passed in a regular suit or on appeal) of a Civil court not established by Royal Charter or of a Revenue court.	Ditto ...	The date of the decision or of taking some proceeding to enforce, or keep in force, the decision.
<i>Part VII.—Two years.</i>		
34.—Suit for false imprisonment ...	Two years ...	When the imprisonment ends.
35.—Suit for any other injury to the person.	Ditto ...	When the injury is committed.
36.—Suit for a malicious prosecution ...	Ditto ...	When the plaintiff is acquitted.
37.—Suit for libel ...	Ditto ...	When the libel is published.
38.—Suit for slander ...	Ditto ...	When the words are spoken.
39.—Suit for trespass upon immoveable property.	Ditto ...	When the trespass takes place.
40.—Suit for obstructing a way or a water-course	Ditto ...	The date of the obstruction.
41.—Suit for diverting a water-course ...	Ditto ...	The date of the diversion.
42.—Suit for taking or damaging moveable property.	Ditto ...	When the taking or damage occurs.
43.—Suit for wrongfully detaining title-deeds.	Ditto ...	When the title to the property comprised in the deeds is adjudged to the plaintiff.

SECOND SCHEDULE—*continued.*

Description of suit.	Period of limitation.	Time when period begins to run.
	<i>Part VII.—Two years,—concluded.</i>	
44.—Suit for wrongfully detaining any other moveable property.	Two years ...	When the detainer's property becomes unlawful.
45.—Suit for specific recovery of moveable property.	Ditto ...	When the property is demanded.
46.—Suit for lost moveable property which the possessor refuses to restore.	Ditto ...	The date of the refusal.
47.—Suit for slander of title to property.	Ditto ...	When damage is caused by the slander.
48.—Suit for loss of service occasioned by the seduction of the plaintiff's servant or daughter.	Ditto ...	When the loss occurs.
49.—Suit for inducing a person to break a contract with the plaintiff.	Ditto ...	The date of the breach.
50.—Suit for an illegal, irregular, or excessive distress.	Ditto ...	The date of the distress.
51.—Suit for wrongful seizure of moveable property under legal process.	Ditto ...	The date of the seizure.
52.—Suit against a carrier for losing or injuring goods.	Ditto ...	When the loss or injury occurs.
53.—Suit against a carrier for delay in delivering goods.	Ditto ...	When the goods ought to be delivered.
54.—Suit against one who, having a right to use property for specific purposes, perverts it to other purposes.	Ditto ...	The time of the perversion.
55.—Suit under Act No. XII of 1855 (<i>to enable executors, administrators or representatives to sue and be sued for certain wrongs</i>) against an executor, administrator or other representative.	Ditto ...	When the wrong complained of, is committed.
56.—Suit for compensation for any wrong, malfeasance, nonfeasance or misfeasance independent of contract and not herein specially provided for.	Ditto ...	When the default happens.
	<i>Part VIII.—Three years.</i>	
57.—Suit to contest an award under any of the following Regulations of the Bengal Code:— VII of 1822, IX of 1825, and IX of 1838.	Three years ...	The date of the final award or order in the case.
58.—Suit to recover any property comprised in such award.	Ditto ...	Ditto.

SECOND SCHEDULE—continued.

Description of suit.	Period of limitation.	Time when period begins to run.
<i>Part VIII.—Three years,—continued.</i>		
59.—Suit by any person bound by an order respecting the possession of property made under Act No. XVI of 1838, section one, clause two, or Act No. XXV of 1861, chapter twenty-two, or by any one claiming under such person, to recover the property comprised in such order.	Three years ...	The date of the final order in the case.
60.—Suit for the hire of animals, vehicles, boats or household furniture.	Ditto ...	The date of the hiring.
61.—Suit for the balance of money advanced in payment of goods to be delivered.	Ditto ...	When the goods ought to be delivered.
62.—Suit for the price of goods sold and delivered, where no fixed period of credit is agreed upon.	Ditto ...	The date of the delivery of the goods.
63.—Suit for the price of goods sold and delivered to be paid for after the expiry of a fixed period of credit.	Ditto ...	The expiry of the period of credit.
64.—Suit for the price of goods sold and delivered to be paid for by a bill of exchange, no such bill being given.	Ditto ...	When the period of the proposed bill elapses.
65.—Suit for the price of trees or growing crops sold by the plaintiff to the defendant where no fixed period of credit is agreed upon.	Ditto ...	The date of the sale.
66.—Suit for the price of work done by the plaintiff for the defendant at his request.	Ditto ...	When the work is done.
67.—Suit for money payable for money lent or for money lent under an agreement that it shall be payable on demand.	Ditto ...	When the loan is made.
68.—Suit for money payable to the plaintiff for money paid for the defendant.	Ditto ...	When the money is paid.
69.—Suit for money payable by the defendant to the plaintiff for money received by the defendant for the plaintiff's use.	Ditto ..	When the money is received.
70.—Suit for money payable for interest upon money due from the defendant to the plaintiff where there is no registered agreement in writing to pay the interest.	Ditto ...	When the interest becomes due.
71.—Suit for money payable to the plaintiff for money found to be due from the defendant to the plaintiff on accounts stated between them.	Ditto ...	When the accounts are stated, unless where the debt is made payable at a future time and then when that time arrives.
72.—Suit upon a promise to do anything at a specified time, or upon the happening of a specified contingency.	Ditto ...	At the time specified or upon the contingency happening.

SECOND SCHEDULE—continued.

Description of suit.	Period of limitation.	Time when period begins to run.
	<i>Part VIII.—Three years,—continued.</i>	
73.—Suit upon a judgment not obtained in British India.	Three years ...	The date of the judgment.
74.—Suit against a factor for an account.	Ditto ...	When the account is demanded.
75.—Suit on a bill of exchange or promissory note payable at a fixed time after date.	Ditto ...	When the bill or note falls due.
76.—Suit on a bill of exchange payable at or after sight.	Ditto ...	When the bill is presented.
77.—Suit on a bill of exchange accepted payable at a particular place.	Ditto ...	When the bill is presented at that place.
78.—Suit on a bill of exchange or promissory note payable at a fixed time after sight or after demand.	Ditto ...	When the fixed time expires.
79.—Suit on a bill of exchange or promissory note payable on demand and not accompanied by any writing restraining or postponing the right to sue.	Ditto ...	The date of making or accepting.
80.—Suit by the endorsee of a promissory note against the endorser.	Ditto ...	The date of the endorsement.
81.—Suit on a promissory note or bond payable by instalments.	Ditto ...	The expiration of the first term of payment, as to the part then payable; and, for the other parts, the expiration of the respective terms of payment.
82.—Suit on a promissory note or bond payable by instalments, which provides that if default be made in payment of one instalment the whole shall be due.	Ditto ...	The time of the first default.
83.—Suit on a promissory note given by the maker to a third person to be delivered to the payee after a certain event should happen.	Ditto ...	The time of the delivery to the payee.
84.—Suit on a dishonoured foreign bill where protest has been made and notice given.	Ditto ...	When the notice is given.
85.—Suit by the payee against the drawer of a bill of exchange which has been dishonoured by non-acceptance.	Ditto ...	The date of the refusal to accept.
86.—Like suit when the bill has been dishonoured by non-acceptance and afterwards by non-payment.	Ditto ...	Ditto.
87.—Suit by the acceptor of an accommodation-bill against the drawer.	Ditto ...	When the acceptor pays the amount.
88.—Suit by a surety against the principal debtor.	Ditto ...	When the surety first pays the creditor.

SECOND SCHEDULE—continued.

Description of suit.	Period of limitation.	Time when period begins to run.
	<i>Part VIII.—Three years,—continued.</i>	
89.—Suit by a surety against a co-surety.	Three years ...	When the plaintiff first pays anything in excess of his own share.
90.—Suit upon any other contract to indemnify.	Ditto ...	When the plaintiff is actually damaged.
91.—Suit by an attorney or vakil for his costs of a suit or a particular business, there being no express agreement as to the time when such costs are to be paid.	Ditto ...	The termination of the suit or business, or (where the attorney or vakil properly discontinues the suit or business) the date of such discontinuance.
92.—Suits for compensation for damages caused by an injunction wrongfully obtained.	Ditto ...	When the injunction ceases.
93.—Suit for the balance due on a mutual, open and current account, where there have been reciprocal demands between the parties.	Ditto ...	The time of the last item admitted or proved in the account.
94.—Suit on a policy of insurance when the sum assured is payable after proof of the death or loss has been given to or received by the insurers.	Ditto ...	When proof of the death or loss is given or received, to or by the insurers, whether by or from the plaintiff, or any other person.
95.—Suit by the assured to recover premia paid under a policy voidable at the election of the insurers.	Ditto ...	When the insurers elect to avoid the policy.
96.—Suit by a principal against his agent for moveable property received by the latter and not accounted for.	Ditto ...	When the account is demanded and refused.
97.—Other suits by principals against agents for neglect or misconduct.	Ditto ...	When the neglect or misconduct occurs.
98.—Suit to cancel or set aside an instrument not otherwise provided for.	Ditto ...	When the instrument is executed.
99.—Suit to declare the forgery of an instrument issued, or registered, or attempted to be enforced.	Ditto ...	The date of the issue, registration, or attempt.
100.—Suit for property which the plaintiff has conveyed while insane.	Ditto ...	When the plaintiff is restored to sanity and has knowledge of the conveyance.
101.—Suit for relief on the ground of fraud.	Ditto ...	When the fraud becomes known to the party wronged.
102.—Suit for relief on the ground of mistake in fact.	Ditto ...	When the mistake becomes known to the plaintiff.
103.—Suit for money paid upon an existing consideration, which afterwards fails.	Ditto ...	The date of the failure.
104.—Suit to make good out of the general estate of a deceased trustee the loss occasioned by a breach of trust.	Ditto ...	The date of the trustee's death.

SECOND SCHEDULE—continued.

Description of suit.	Period of limitation.	Time when period begins to run.
	<i>Part VIII.—Three years,—continued.</i>	
105.—Suit for contribution by a party who has paid the whole amount due under a joint decree payable by rateable shares.	Three years ...	The date of the plaintiff's advance in excess of his own share.
106.—Suit by a co-trustee to enforce against the estate of a deceased trustee a claim for contribution.	Ditto ...	When the right to contribution accrues.
107.—Suit for a seaman's wages. ...	Ditto ...	The end of the voyage during which the wages are earned.
108.—Suit by a Muhammadan for exigible dower (<i>mu'ajjal</i>).	Ditto ...	When the dower is demanded and refused, or (where during the continuance of the marriage no such demand has been made) when the marriage is dissolved by death or divorce.
109.—Suit by a Muhammadan for deferred dower (<i>muwajjal</i>).	Ditto ...	When the marriage is dissolved by death or divorce.
110.—Suit by a mortgagor after the mortgage has been satisfied, to recover surplus collections received by the mortgagee.	Ditto ...	The date of the satisfaction of the mortgage.
111.—Suit for an account and a share of the profits of a dissolved partnership.	Ditto ...	The date of the dissolution.
112.—Suit by a Hindú manager of a joint estate for contribution in respect of a payment made by him on account of the estate.	Ditto ...	The date of the payment.
113.—Suit to set aside a decree obtained by fraud.	Ditto ...	The date of the decree.
114.—Suit by a lessor for the value of trees cut down by his lessee contrary to the terms of the lease.	Ditto ...	When the trees are cut down.
115.—Suit for the profits of land belonging to the plaintiff wrongfully received by the defendant.	Ditto ...	When the profits are received.
116.—Suit for arrears of rent, <i>málikáná</i> and <i>toda garás</i> .	Ditto ...	When the arrears become due.
117.—Suit by a vendor of land to enforce his lien for unpaid purchase-money.	Ditto ...	The time fixed for completing the sale, or (where the title is accepted after the time fixed for completion) the date of the acceptance.
118.—Suit for specific performance of a contract.	Ditto ...	When the plaintiff has notice that his right is denied.
119.—Suit for the rescission of a contract...	Ditto ...	When the contract is executed by the plaintiff.

SECOND SCHEDULE—continued.

Description of suit.	Period of limitation.	Time when period begins to run.
	<i>Part VIII.—Three years,—concluded.</i>	
120.—Suit for the breach of any contract, express or implied, not in writing registered.	Three years ...	When the contract is broken, or (where there are successive breaches) when the breach sued for occurs, or (where the breach is continuing) when it ceases.
121.—Application for the execution of a decree or order of a court not established by Royal Charter.	Ditto ...	The date of the decree or order, or (when the application next hereinafter mentioned has been made) the date of applying in good faith to the court to enforce, or keep in force, the decree or order, or (when the notice next hereinafter mentioned has been issued) the date of issuing in good faith a notice under the Code of Civil Procedure, section two hundred and sixteen, or (where there has been an appeal) the date of the final decree or order of the Appellate Court, or (where there has been a review of judgment) the date of the decision passed on the review.
122.—Application for the execution of any such decree or order within the local limits of the ordinary original civil jurisdiction of a court established by Royal Charter.	Ditto ...	The date of filing in such Court the copy of the decree or order.
	<i>Part IX.—Six years.</i>	
123.—Suit on a promise or contract in writing registered.	Six years ...	When the right to sue accrues. <i>Explanation.</i> —In the case of a suit of any of the descriptions mentioned in Part VI or Part VIII of this schedule, the right to sue shall be deemed to accrue at the time fixed by the third column for such description of suit.
124.—Suit for which no period of limitation is provided elsewhere in this schedule.	Ditto ...	Ditto.
	<i>Part X.—Twelve years.</i>	
125.—Suit by an auction purchaser or any one claiming under him to avoid incumbrances or under-tenures in an entire estate sold for arrears of Government revenue, the estate being, by virtue of such sale, freed from incumbrances and under-tenures.	Twelve years ...	When the sale becomes final and conclusive.
126.—Suit to avoid incumbrances or under-tenures in a <i>patni taluq</i> or other saleable tenure sold for arrears of rent, the taluq or tenure being, by virtue of such sale, freed from incumbrances and under-tenures.	Ditto ...	When the sale becomes final and conclusive.
127.—Suit upon a judgment obtained in British India, or a recognizance.	Ditto ...	The date of the judgment or recognizance.

SECOND SCHEDULE—continued.

Description of suit.	Period of limitation.	Time when period begins to run.
	<i>Part X.—Twelve years,—continued.</i>	
128.—Suit in a case governed by English law for the breach of a contract by specialty.	Twelve years ...	When the contract is broken.
129.—Suit for a legacy.	Ditto ...	When the legacy becomes payable or deliverable.
130.—Suit for an hereditary office.	Ditto ...	When the defendant, or some person through whom he claims, took adverse possession of the office.
131.—Suit by a landlord to recover possession from a tenant.	Ditto ...	When the tenancy is determined.
132.—Suit in a Court not established by Royal Charter by a mortgagee for possession of immoveable property mortgaged.	Ditto ...	When the mortgagee is first entitled to possession.
133.—Suit by a purchaser at a private sale for possession of the immoveable property sold, when the vendor was out of possession at the date of the sale.	Ditto ...	When the vendor is first entitled to possession.
134.—Like suit by a purchaser at a sale in execution of a decree, when the execution-debtor was out of possession at the date of the sale.	Ditto ...	When the execution-debtor is first entitled to possession.
135.—Suit by a purchaser of land at a sale in execution of a decree, for possession of the purchased land, when he never has had possession.	Ditto ...	The date of the sale.
136.—Like suit when the purchaser had possession, but was afterwards dispossessed.	Ditto ...	The date of the dispossession.
137.—Suit by a mirásidár to recover possession of mirás land, which his ancestor had resigned to Government, from a holder to whom Government had subsequently granted it.	Ditto ...	When the land was resigned.
138.—Suit by a remainderman, a reversioner, or an executory devisee, for possession of immoveable property.	Ditto ...	When his estate falls into possession.
139.—Like suit by a Hindú entitled to the possession of immoveable property on the death of a Hindú widow.	Ditto ...	When the widow dies.
140.—Suit by a Hindú governed by the law of the Mitákshará to set aside his father's alienation of ancestral property.	Ditto ...	The date of the alienation.
141.—Like suit by a Hindú governed by the law of the Dáyabhága.	Ditto ...	When the father dies.
142.—Suit during the life of a Hindú widow by a Hindú entitled to the possession of land on her death to have an alienation made by the widow declared to be void except for her life.	Ditto ...	When the alienation took place.

SECOND SCHEDULE—continued.

Description of suit.	Period of limitation.	Time when period begins to run.
	<i>Part X.—Twelve years,—concluded.</i>	
143.—Like suit after the widow's death ...	Twelve years ...	The date of the death.
144.—Suit by a Hindú excluded from joint-family property to enforce a right to share therein.	Ditto ...	In the case of a Hindú governed by the law of the Dáyabhāga, the date of the death of the person from whom the property is alleged to have descended. In the case of any other Hindú, the date of the last payment to the plaintiff on account of the share by the person in possession or management of the property, not in any way on behalf of the plaintiff.
145.—Suit by a Hindú for maintenance.	Ditto ...	When the maintenance sued for is claimed and refused.
146.—Suit to set aside an adoption ...	Ditto ...	The date of the adoption.
147.—Suit for the resumption or assessment of rent-free land.	Ditto ...	When the right to resume or assess the land first accrued : Provided that no such suit shall be maintained where the land forms part of a permanently-settled estate, and has been held rent-free from the time of the Permanent Settlement.
148.—Suit to establish a periodically recurring right.	Ditto ...	When the plaintiff is first denied the enjoyment of the right.
149.—Suit for money charged upon or payable out of immoveable property.	Ditto ...	When the money becomes due.
150.—Suit for immoveable property or any interest therein not hereby otherwise specially provided for.	Ditto ...	When the defendant, or some person through whom he claims, took adverse possession of the property.
151.—Application to enforce a judgment, decree or order of any Court established by Royal Charter in the exercise of its ordinary original civil jurisdiction.	Ditto ...	When a present right to enforce the judgment, decree or order accrued to some person capable of releasing the right : Provided that, when the judgment, decree or order has been revived, or some part of the principal money secured thereby, or some interest on such money has been paid, or some acknowledgment of the right thereto has been given in writing signed by the person liable to pay such principal or interest or his agent, to the person entitled thereto or his agent, the twelve years shall be computed from the date of such revivor, payment or acknowledgment, or the latest of such revivors, payments or acknowledgments, as the case may be.

SECOND SCHEDULE—concluded.

Description of suit.	Period of limitation.	Time when period begins to run.
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153.—Suit to recover moveable property conveyed in trust, deposited or pawned and afterwards bought from the trustee, depositary or pawnee in good faith and for value.	Ditto ...	The date of the purchase.
154.—Suit against a mortgagee to recover immoveable property mortgaged.	<i>Part XII.—Sixty years.</i> Sixty years ...	The date of the mortgage, unless where an acknowledgment of the title of the mortgagor or of his right of redemption has been made in writing signed by the mortgagee or some person claiming under him, and, in such case, the date of the acknowledgment.
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Nothing hereinafter contained shall be deemed to have the force of law.

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STATEMENT OF OBJECTS AND REASONS.

Though the Limitation Act (XIV of 1859) has not been in force for eight years, its twenty-four sections have given rise to more than a thousand reported cases, of which many are inconsistent and some directly conflicting. The time therefore appears to have arrived for attempting to redraw and re-arrange the Act so as to render the law on so important a subject certain, simple and easily ascertainable.

The present Bill is arranged on the following principle. In determining whether a given suit is barred by limitation, three matters, and three only, need, as a rule, be considered. These are, first, the class to which the suit belongs; secondly, the period of limitation prescribed therefor, and, thirdly, the time when that period begins to run. Most of the difficulties which arise in applying the Limitation Act are caused by the third of these considerations. The framers of the Act, it is true, have in some cases expressly fixed the time at which the period of limitation shall be taken to commence. But as to suits for wages, hire, the price of goods sold by retail, and damages for several kinds of wrong, and as to the other innumerable suits for which no period is specially provided, they have contented themselves with declaring that the period runs "from the time the cause of action arose." To say when a cause of action arises is sometimes difficult, and the great feature of the present measure is its attempt to preclude this difficulty. The bulk of the Bill accordingly consists of a schedule of the commonest suits, shewing, in the case of each, (1) the period of limitation applicable thereto, and (2) the time when that period begins to run. Easy access to the contents of this schedule is given by a copious alphabetical index.

The Bill also repeals and re-enacts the limitation-rules as to suits under Acts in force throughout British India, as well as the provisions contained in the Code of Civil Procedure as to the time within which appeals and certain applications to Courts must be presented and made. The Bill provides (Schedule II, No. 121) for applications for the execution of decrees of mofussil Courts within the local limits of the ordinary original civil jurisdiction of the High Courts. This will supply an omission in the law which has lately been pointed out by the High Court of Madras (5 Mad. H. C. Rep. 219).

The other provisions of the Bill will now be noticed.

Act XIV of 1859, section 1, declares that "no suit shall be maintained unless the same is instituted within the period of limitation hereinafter made applicable to a suit of that nature." Upon this section many questions have arisen; as to the effect of pleading limitation; whether the plea can be considered on appeal where it has not been set up in the Court of first instance, and whether there is, in this respect, any distinction between regular and special appeals. The corresponding provision of the Bill (section 4) is, it is hoped, so framed as to preclude such questions.

The explanation to section 4 of the Bill enacts (in accordance with decisions of the High Court at Fort William) that a suit shall be considered as instituted, in ordinary cases, when the plaint is presented to the proper officer; in the case of a pauper, when his application to sue as such is filed, and in the case of a claim against a Company which is being wound up by the Court, when the claimant applies to the official liquidator.

Section 5 provides for the case where a period of limitation expires when the Court is closed, empowers the Court, in proper cases, to admit an appeal or an application for review after the period applicable thereto, and declares, in accordance with a decision of Sir B. Peacock's, that an appeal once admitted shall not be dismissed as late.

The section (7) on legal disability, in accordance with the original draft of Act XIV, omits the case of coverture. The identity of interests between husband and wife, even where the Indian Succession Act does not apply, will suffice to secure attention to her claims against third parties. The section provides for the case of two disabilities existing when the right to sue accrues.

Sections 8 and 9 embody the English law as to the effect of the disability of a joint creditor or claimant, and as to the continuous running of time.

In computing the period of limitation, contradictory rulings have been made as to whether the day on which the cause of action arose should be excluded. The Bill, section 10, settles this question in the affirmative.

Section 11—as to the effect of a defendant's absence from British India—is equivalent to Act XIV of 1859, section 13. But the words 'for any suit' have been introduced so as to preclude (in accordance with a decision of the Madras High Court) the application of this provision to the execution of decrees.

To section 12—as to the effect of suing *bona fide* in a wrong court—have been added explanations to shew, (1) that, in excluding the time during which a former suit was pending, the day on which that suit was instituted and the day on which the proceedings therein ended, shall both be counted, and (2) that a plaintiff resisting an appeal presented on the ground of

want of jurisdiction shall be deemed to be prosecuting a suit within the meaning of the section. These provisions accord with the rulings in *Hurro Soonduree Dabee v. Kally Mohun* and in *Shumboonath Biswas v. Kistodhone Sircar* cited in the second edition of Mr. Thomson's work on Act XIV, pp. 288, 292.

No provision is made in Act XIV for a case where the commencement of a suit is stayed by injunction. Section 13 of the Bill provides (in accordance with the New York Code of Civil Procedure, section 589) that, in such case, the time that the injunction continues is no part of the period limited for the institution of the suit.

Section 14 declares, in accordance with the decision in *Gopal Chunder Ghose v. Raj Chunder Dutt*, 2 W. R. Mis. 9, that, in computing the period prescribed for a suit for possession by an execution-purchaser, the time during which the judgment-debtor has been suing to set aside the sale shall be excluded.

Section 15, in accordance with English cases, declares that when a person who would, if alive, have a right to sue, dies before the accrual, time shall begin to run as soon as he is represented in interest. So, where a person against whom, if alive, a right to sue would have accrued, dies before the accrual, time will begin running when there is a representative whom the plaintiff may sue.

Section 16—as to the effect of fraud—is equivalent to Act XIV of 1859, section 9.

Section 17—as to the effect of an acknowledgment or promise in writing—settles, by the explanation and illustrations added thereto, several doubts which have arisen on the corresponding section (4) of Act XIV. It declares, in accord with the English case of *Edmonds v. Downes*, 2 C. & M. 459, 463, that where the acknowledgment is undated, oral evidence may be given of the time it was signed. But it also declares (herein contravening *Haydon v. Williams*, 7 Bing. 163) that when the acknowledgment is destroyed or lost, oral evidence of its contents shall not be received. It declares, in the 'explanation,' that an acknowledgment may be sufficient though it omits to specify the exact amount of the debt, or avers that the time for payment has not come, or sets up limitation as a bar, or is accompanied by a refusal to pay, or is coupled with a claim to a set-off, or, lastly, is addressed to any person other than the creditor.

Doubts have arisen as to how limitation should be applied when, after the institution of a suit, a new plaintiff or defendant is substituted or added. Section 18 contains rules on this subject, which accord with the decisions in 6 W. R. 298 and 10 W. R. 317.

Section 19 states the rules of English law as to the computation of time, (1) where there are successive breaches of contract, and (2) where a breach of contract or a nuisance is continuing.

Section 20 embodies the English law as to suits for compensation for a lawful act which from subsequently causing damage, becomes unlawful.

When a decree directs payment to be made by instalments at specified dates, section 21 declares (in accordance with two decisions of the Bombay High Court) that, for the purpose of computing the time within which application may be made to enforce each instalment, the date when it becomes due shall be deemed the date of the decree.

Section 22 (also in accordance with a decision of the Bombay High Court) provides that in the absence of evidence to the contrary, an instrument made by a Native shall, for the purposes of the Limitation Act, be deemed to be made with reference to the calendar ordinarily employed by him.

Except in the Bombay Presidency (see Bombay Regulation V of 1827, section 1, clause 1) Indian statute-law contains no distinct enactment on the subject of the acquisition of title by prescription. Part IV of the Bill attempts to supply this want. It begins (section 23) by defining what constitutes adverse possession by a claimant of land or of an hereditary office. It then declares (section 24) how long the possession of a tenant, an agent or a servant shall be deemed the possession of his landlord, principal or master, and it concludes (section 25) by providing, in accordance with the New York Civil Code, section 441, and with 3 & 4 Wm. IV., c. 27, section 34, that adverse uninterrupted possession for the period limited in the case of any suit for the recovery of property confers a title thereto which is sufficient against all.

Part V of the Bill contains some miscellaneous provisions. Section 26 declares that suits against express trustees and their representatives, for the purpose of following trust-property, shall not be barred by any lapse of time. The section has been so framed as to preclude its application to cases of implied or constructive trust. Section 27 states the only case in which the Courts of this country can be required to give effect to a foreign rule of limitations. And section 28 declares that suits on contracts entered into abroad shall, here, be subject to the Indian limitation law, part of the *lex fori*. This is in accordance with *Huber v. Steiner*, 2 Scott 304.

To the Bill are appended two Schedules. The first comprises all the enactments relating to limitation and extending to British India which have not hitherto been expressly repealed. Of these, the first mentioned, 21 Jac., c. 16, was held in *The East India Co. v. Paul* (7 Moo. P. C. C. 85) to extend to India. Act XIV of 1859 is of course repealed, with the exception of one section (15) whose proper place is in the Code of Civil Procedure.

The second Schedule is divided into twelve parts corresponding with the twelve periods of limitation prescribed for the suits, appeals and applications to which the Act extends. Part IV provides a period of ninety days for all suits for acts done in pursuance of enactments in force in British India. Part VII provides a period of two years for suits for all wrongs independent of contract. Part VIII fixes a period of three years for suits on contracts not in writing registered. Where the contract is in writing and registered, the period will (under Part IX) be six years. So in the case of all suits for which no period of limitation is specially provided. Part XI and the first three clauses of Part XII state the law as laid down in Act XIV, section 1, clause 15, and sections 5 and 6. But as there is now nowhere in British India any special provision limiting public claims by Government, the last clause of Part XII proposes, in accordance with Bengal Regulation II of 1805, section 2, to fix a period of sixty years for suits in the name of the Secretary of State in Council.

It is right, in conclusion, to acknowledge the great assistance derived, in framing this Bill, from Mr. Ninian Thomson's work on Act XIV of 1859.

SIMLA,
The 20th September 1870. }

J. F. STEPHEN.

WHITLEY STOKES,
Secy. to the Govt. of India.

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 2nd December 1870, and was referred to a Select Committee with instructions to make their report thereon in six weeks:—

No. 28 of 1870.

A Bill for the Registration of Criminal Tribes and Eunuchs.

WHEREAS it is expedient to provide for the registration, surveillance and control of certain criminal tribes and eunuchs; It is hereby enacted as follows:—

Part I.—Preliminary.

1. This Act may be called "The Criminal Tribes' Act, 1870."

This section and section nine extend to the whole of British India: the rest of

this Act extends only to the territories respectively under the governments of the Lieutenant-Governors of the North-Western Provinces and the Panjáb and under the administration of the Chief Commissioner of Oudh.

This Act shall come into force on the passing thereof.

Part II.—Criminal Tribes.

2. The Local Government may declare any tribe, gang or class of persons reasonably suspected of being addicted to the commission of theft or robbery, and having a fixed place of residence during the whole or any part of the year, to be a criminal tribe, gang or class, and may direct the Magistrate of any District in which such tribe, gang or class, or any part thereof, resides to make a register of the members of such tribe, gang or class in a form to be prescribed by the Local Government.

3. Upon receiving such direction, the said Magistrate shall publish a notice in the place where the register is to be made, calling upon all the members of the tribe, gang or class to appear, at a time and place therein specified, before such persons as he appoints, and to give those persons such information as may be necessary to enable them to make the register in the form aforesaid.

Any member of any such tribe, gang or class failing to appear according to such notice, or intentionally omitting to furnish such information, or furnishing, as true, information on the subject which he knows or has reason to believe to be false, shall be deemed guilty of an offence under section one hundred and seventy-four, or one hundred and seventy-six, or one hundred and seventy-seven of the Indian Penal Code, as the case may be.

4. The register, when made, shall be kept by the officer in charge of such Police Station as the said Magistrate from time to time directs.

5. The officer keeping the register shall from time to time report to the said Magistrate any alterations which ought to be made therein, either by way of addition or omission.

6. Any person deeming himself aggrieved by any entry made or proposed to be made in such register may complain to the said Magistrate, and the Magistrate shall retain such person's name on the register, or erase it therefrom, or enter it thereupon as he may see fit.

7. When the register has been formed, no alteration shall be made therein except by or by order of the said Magistrate, and he shall write his initials against every such alteration.

8. The Local Government may, with the previous consent of the Governor or General in Council, make rules binding upon all persons whose names may, for the time being, be upon such register.

Such rules may prescribe—

1st, the limits within which persons whose names are on the register shall reside;

2nd, conditions as to holding passes, under which such persons may be permitted to leave the said limits; and

3rd, conditions as to answering at roll-call or otherwise, in order to satisfy the said Magistrate, or persons authorized by him, that the persons whose names are on the register are actually present at given times within the said limits.

Any person violating any of the said rules shall, on conviction before a Magistrate, be punished with rigorous imprisonment for a term which may extend to six months, or with fine, or with whipping, or with all or any two of those punishments.

9. Any person so registered, who is found in any part of India beyond the limits so prescribed for his residence, without such pass as may be required by the said rules, may be arrested without warrant by any Police Officer, and taken before a Magistrate, who may order him to be removed to the District in which he ought to have resided, there to be dealt with according to the rules under this Act in force for the time being.

The rules for the time being in force for the transmission of prisoners shall apply to all persons removed under this section.

Part III.—Eunuchs.

10. The Local Government shall cause the following registers to be made and kept up by such officer as from time to time it appoints in this behalf:—

(a) A register of the names and residences of all eunuchs residing in any town or place to which the Local Government specially extends this Part of this Act, who are reasonably suspected of kidnapping or castrating children, or of committing offences under the Indian Penal Code, section three hundred and seventy-seven, or of abetting, within the meaning of the same Code, the commission of any of the said offences; and

(b) a register of the property of such of the said eunuchs as, under the provisions hereinafter contained, are required to furnish information as to their property.

The Local Government may from time to time make rules for the making and keeping up and charge of such registers, and may, if it think fit, direct the name of any eunuch to be erased therefrom.

Penalty on registered eunuch appearing in female clothes;

11. Any eunuch so registered who appears in female clothes in any public street or place,

or who dances or plays music, or takes part in any public exhibition, in any public street or place, or for hire in any private house,

shall, upon conviction before a Magistrate, be punished with imprisonment for a term which may extend to two years, or with fine, or with whipping, or with all or any two of those punishments.

12. Any eunuch so registered who has in his charge, or keeps in his house or under his power or control, any boy who has not completed the age of sixteen years, shall, upon conviction before a Magistrate, be punished with imprisonment for a term which may extend to two years, or with whipping, or with both.

Disabilities of registered eunuchs.

13. No eunuch so registered shall be capable—

- (a) of being or acting as guardian to any minor;
- (b) of making a gift;
- (c) of making a will, or
- (d) of adopting a son.

14. Any officer authorized by the Local Government in this behalf may, from time to time, require any eunuch so registered to furnish information as to all property, whether moveable or immovable, of or to which he is possessed or entitled, or which is held in trust for him.

Any such eunuch intentionally omitting to furnish such information, or furnishing, as true, information on the subject which he knows or has reason to believe to be false, shall be deemed to have committed an offence under section one hundred and seventy-six or one hundred and seventy-seven of the Indian Penal Code, as the case may be.

Part IV.—Miscellaneous.

15. All sentences of whipping under this Act shall be executed in manner, and subject to the precautions, prescribed in sections ten and eleven of Act No. VI of 1864.

16. No suit or other proceeding shall be maintained against any person in respect of anything done by him in good faith pursuant to this Act.

17. All Magistrates and other persons are hereby indemnified for anything done under the circular order 18 of 1856 of the Judicial Commissioner of the Panjáb, and no suit or other proceeding shall be maintained against any such Magistrate or other person in respect of anything so done.

STATEMENT OF OBJECTS AND REASONS.

Various tribes in the North-Western Provinces, the Panjáb and Oudh carry on theft and robbery systematically. They live quietly for part of the year in their own Districts, but they spend the rest of it in wandering about the country plundering, and on their return divide their gains according to a fixed rule. In the North-Western

Provinces alone, there are twenty-nine tribes who support themselves in the manner above described.

The first object of the present Bill is to provide for the formation of a register of the members of the tribes in question. They will be compelled, by Rules which the Local Government is empowered to make, to reside within certain fixed limits, forbidden to leave those limits without permission, and if found beyond them, apprehended by the Police and sent to the place where they ought to live. Like rules were till lately enforced, with excellent results, in the Panjáb; but the Chief Court has recently decided that these rules were unauthorized by law.

The second object of the Bill is to crush an association of eunuchs in the North-Western Provinces, who carry on a system of unnatural prostitution, and perpetuate their class by kidnapping and castrating boys.

The Bill provides for the registration of the names, residences and property of all eunuchs reasonably suspected of committing these offences; imposes penalties on any registered eunuch who appears in public in female clothes, who dances in public or for hire, or who keeps in his control any boy under the age of sixteen. It also deprives such eunuchs of the power of becoming guardians to minors, of making gifts and wills, and of adopting sons.

J. F. STEPHEN.

The 23rd November 1870.

WHITLEY STOKES,

Secy. to the Govt. of India.

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 2nd December 1870:—

No. 29 OF 1870.

A Bill to repeal the law relating to the General Funds of the Courts of Small Causes at the Presidency Towns.

WHEREAS by Act No. IX of 1850 (*for the more easy Recovery of small Debts and Demands in Calcutta, Madras and Bombay*), section nineteen, it was (amongst other things) enacted that the fees therein mentioned should be paid over to an account to be termed the General Fund of the Court; and whereas no such payment has ever been made and no such account has ever been opened; and whereas it is expedient that the said enactment should be expressly repealed so far as relates to such payment and account; It is hereby enacted as follows:—

1. The following words of the said section are hereby repealed (that is to say): "which fees shall be paid over to an account to be termed the General Fund of the Court."

Partial repeal of Act IX of 1850, section 19.

2. All officers and other persons are hereby indemnified for omitting to make such payment or to open or keep such account; and no suit or other proceeding shall be maintained against any such

Indemnity-clause.

officer or other person in respect of any such omission.

STATEMENT OF OBJECTS AND REASONS.

Act IX of 1850, section 19, provides that the fees received by each of the Courts of Small Causes at the Presidency Towns shall be paid over to a Fund termed the General Fund of the Court. This provision has remained a dead letter: the charges of the Courts have hitherto been defrayed by the State; and the fees in question have always been credited to the State as "Judicial Receipts" or "Law and Justice." It is clearly desirable to render this practice legal and to continue to treat the receipts and charges of the Presidency Courts of Small Causes in the same manner as the receipts and charges of the other Courts in British India. The Bill accordingly repeals the provision above referred to and indemnifies all officers for omitting to obey it.

R. TEMPLE.

The 19th November 1870.

WHITLEY STOKES,

Secy. to the Govt. of India.

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 2nd December 1870:—

No. 30 OF 1870.

A Bill to extend the Prisons' Act, 1870, to Coorg.

FOR the purpose of extending the Prisons' Act, 1870, to Coorg: It is hereby enacted as follows:—

Preamble.

1. The said Act shall extend to the territories under the administration of the Chief Commissioner of Coorg, but subject to the following modifications (that is to say):—

Extension to Coorg of Act XXVI of 1870.

(a.) The preamble and sections one and six shall be construed as if, after the words 'Central Provinces,' the word 'Coorg' were inserted.

(b.) Section one shall be construed as if, for the words and figures 'December, 1870,' the words and figures 'January, 1871' were substituted.

STATEMENT OF OBJECTS AND REASONS.

No Jail Code having been laid down for guidance in Coorg, the present Bill, which has been framed at the suggestion of the Chief Commissioner, extends to that Province the recently passed Prisons' Act, No. XXVI of 1870.

F. S. CHAPMAN.

The 18th November 1870.

WHITLEY STOKES,

Secy. to the Govt. of India.

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 2nd December 1870, and was referred to a Select Committee with instructions to make their report thereon in six weeks:—

No. 32 of 1870.

A Bill to authorize the extension of the Chaukidari Act to places where there is no Jamadar of Police.

WHEREAS by Act No. XX of 1856 (to make better provision for the appointment and maintenance of Police chowkeydars in Cities,

Towns, Stations, Suburbs and Bazaars in the Presidency of Fort William in Bengal), section two, the Local Government is restrained from extending that Act to any City, Town, Suburb, or Bazaar unless there be therein (or in some other City, Town, Suburb, or Bazaar with which the same may be united as hereinafter provided) a Police station under an officer of a grade not below that of a jamadar; And whereas it is expedient to remove such restriction; It is hereby enacted as follows:

1. In Act No. XX of 1856, section two, the Repeal of part of following words are repealed section 2, Act No. XX (that is to say) "to any City, Town, Suburb, or Bazaar, unless there be therein (or in some other City,

Town, Suburb, or Bazaar with which the same may be united as hereinafter provided) a Police station under an officer of a grade not below that of jamadar, nor"

STATEMENT OF OBJECTS AND REASONS.

The Local Governments are expressly forbidden to extend the Chaukidari Act (XX of 1856) to any town in which there is not a Police station under an officer of a grade not below that of a jamadar. The recent reductions of the police have greatly diminished the number of stations at which there are jamadars; and it is often desirable to extend the Act to towns where there are no Government constables, or where, at least, there is no jamadar.

The present Bill therefore proposes to repeal so much of section 2 of the Act as requires that police of a fixed strength must exist in the town before the provisions of the law can be extended thereto. The Bill has been prepared at the suggestion of the Government of the North-Western Provinces, and with the approval of the Governments of Bengal and the Panjab.

F. S. CHAPMAN.

The 17th November 1870.

WHITLEY STOKES,

Secy. to the Govt. of India.

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 9th December 1870, and was referred to a Select Committee with instructions to make their report thereon in three months:—

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CRIMINAL PROCEDURE BILL.

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A BILL FOR REGULATING THE PROCEDURE OF THE COURTS OF CRIMINAL JUDICATURE NOT ESTABLISHED BY ROYAL CHARTER.

WHEREAS it is expedient to consolidate and amend the law regulating the Procedure of the Courts of Criminal Judicature not established by Royal Charter; It is hereby enacted as follows:—

PRELIMINARY.

Short title. 1. This Act may be called "The Code of Criminal Procedure."

Local extent. It extends to the whole of British India;

Commencement. And it shall come into force on the first day of March, 1871.

Repeal of enactments. 2. The enactments mentioned in the first schedule hereto annexed are repealed.

References to any of the said enactments made in any Act passed subsequently thereto shall be read as if made to the corresponding section of this Act.

Notifications published and orders made under any section of any Act hereby repealed shall be deemed to have been published and made under the corresponding section of this Act.

Definitions.

Interpretation-clause. 3. The following words and expressions in this Act have the meanings hereby assigned to them, unless there be something repugnant in the subject or context:—

"Special law." 4. The words "special law" denote a law applicable to a particular subject.

"Local law." 5. The words "local law" denote a law applicable only to a particular part of British India.

"Enquired into." 6. The words "enquired into" comprise every proceeding preliminary to trial; and the word "determined" comprises trial and every subsequent proceeding, including the punishment of the offender.

"Written." 7. The word "written" includes "printed," "lithographed," and "engraved."

"Criminal Court." 8. The words "Criminal Court" denote every Judge or Magistrate lawfully exercising jurisdiction in criminal cases, whether for the decision of such cases in the first instance, or on appeal, or for commitment to any other Court or officer.

"Court of Justice." 9. The words "Court of Justice" denote a Judge, as defined in the Indian Penal Code, who is empowered by law to act judicially alone, or a body of Judges empowered by law to act judicially as a body, when such Judge or body of Judges is acting judicially.

"Court of Session." 10. The words "Court of Session," subject to the limitations in section 18, include the Courts of the Assistant Sessions Judges in the Presidency of Bombay.

"Magistrate of the District." 11. The words "Magistrate of the District" mean the Chief Officer charged with the executive administration of a District in criminal matters by whatever designation such officer is called.

"Magistrate." 12. The word "Magistrate" includes all persons exercising all or any of the powers of a Magistrate.

"The powers of a Magistrate." 13. The words "the powers of a Magistrate" mean the full powers of a Magistrate.

"Any of the powers of a Magistrate." The words "any of the powers of a Magistrate" denote powers less than the full powers of a Magistrate.

"District." 14. The local jurisdiction of the Magistrate of a District shall, for the purposes of this Act, be deemed a "District;" and the local jurisdiction in a particular part of a District, vested in a Magistrate other than the Magistrate of the District, shall be deemed a "division of a District."

"Local limits of a High Court." 15. The words "local limits of a High Court" mean local limits of the ordinary original criminal jurisdiction of a High Court.

Division of Act. 16. This Act is divided into eleven Parts relating to the following subject-matters:—

The first Part—to jurisdiction.

The second Part—to proceedings to compel appearance.

The third Part—to inquiry and trial.

The fourth Part—to appeal, reference and revision.

The fifth Part—to execution.

The sixth Part—to evidence.

The seventh Part—to procedure incidental to inquiry and trial.

The eighth Part—to exceptional incidents.

The ninth Part—to pleading.

The tenth Part—to the preventive jurisdiction of Magistrates.

The eleventh Part—to miscellaneous provisions.

PART I.

JURISDICTION.

CHAPTER I.—Ordinary Jurisdiction of the Courts.

17. The Criminal Courts of the several grades, according to the powers vested in them respectively by this Act, shall have jurisdiction in respect of offences punishable under the Indian Penal Code, or under any special or local law for the time being in force (except offences which are by any such law made punishable by some other authority therein specially mentioned), and shall be guided by the provisions of this Act in the inquiry into and determination of the offences hereby declared to be within their jurisdiction.

Justices of the Peace not being Magistrates shall also be guided by the provisions of this Act.

18. The offences mentioned in the second

By what Courts offences in second schedule are triable. schedule hereto annexed shall, subject to the provision contained in the third explanatory note prefixed to the said schedule, be triable by the Courts specified in column seven of the said schedule.

Powers of Court of Session.

19. The Court of Session may pass the following sentences:—

Death (subject to confirmation by the High Court);

transportation;

imprisonment of either description for a period not exceeding fourteen years, including such solitary confinement as is authorized by law;

or fine to an unlimited amount;

or both transportation and fine;

or imprisonment and fine, in cases in which both punishments are authorized by the Indian Penal Code.

In cases in which, according to the Indian Penal Code, forfeiture of property may be adjudged, the Court of Session may adjudge such forfeiture in addition to the sentence.

20. In the Presidency of Bombay a Sessions

Powers of Assistant Sessions Judges in Bombay.

Judge may delegate cases for trial by an Assistant Sessions Judge: and the Assistant

Sessions Judge may, in such cases, pass sentences within the following limits:—

Imprisonment for a term not exceeding seven years (including such solitary confinement as is authorized by law), or fine, or both.

If the sentence be one of imprisonment for a term exceeding three years, it shall be passed subject to confirmation by the Sessions Judge.

The Sessions Judge may review and hear appeals against the proceedings of his Assistants, and may confirm and amend (but not so as to enhance or reduce), or may reverse their sentences or orders.

An Assistant Sessions Judge shall not review or hear an appeal against the proceedings of a Magistrate.

21. In the Presidency of Bombay, the Local

Power to appoint, in Bombay Presidency, Joint Sessions Judges.

Government may, with the previous consent of the Governor General in Council,

appoint in any District a Joint Sessions Judge, who shall be invested with co-extensive powers and a concurrent jurisdiction with the Court of Session, except that he shall not receive original complaints, but shall transact such criminal business only as he receives from the Sessions Judge of the District.

The Rules and Regulations for the time being in force for the guidance of the Sessions Judge shall apply to the Joint Sessions Judge, and the seal of the Joint Sessions Judge shall be the same as is used by the Sessions Judge of the District.

22. The Magistrate of the District or other offi-

Powers of Magistrate of the District.

cer authorized to exercise the powers of a Magistrate may

pass the following sentences:—

Imprisonment not exceeding the term of two years, including such solitary confinement as is authorized by law;

or fine to the extent of one thousand rupees;

or both imprisonment and fine in all cases in which both punishments are authorized by the Indian Penal Code.

Subordinate Magistrates or officers authorized to exercise any of the powers of a Magistrate may pass the following sentences:—

Powers of Subordinate Magistrates, First Class.

First Class. Imprisonment not exceeding six months;

or fine not exceeding two hundred rupees;

or both imprisonment and fine in all cases in which both punishments are authorized by the Indian Penal Code.

Second Class.

Second Class. Imprisonment not exceeding one month;

or fine not exceeding fifty rupees;

or both imprisonment and fine in all cases in which both punishments are authorized by the Indian Penal Code.

No sentence of solitary confinement, under section 73 of the Indian Penal Code, shall be passed by any Court inferior to an officer exercising the powers of a Magistrate.

23. Except as otherwise provided in this

Subordination of all Magistrates to Magistrate of District.

Act or by any other law for the time being in force, all Magistrates and Subordinate Magistrates shall be subor-

ordinate to the Magistrate of the District in which they exercise jurisdiction.

24. The Magistrate of the District, or a

Magistrate may withdraw or refer cases.

Magistrate in charge of a division of a District, may respectively withdraw any criminal case from any Court subordinate to him, and may enquire into or try the case himself, or refer it for enquiry or trial to any other such Court competent to enquire into or try the same.

25. In the Lower Provinces and in the

Power for Bengal Magistrate in charge of Division of District to try certain charges unreferred.

North-Western Provinces of the Presidency of Fort William in Bengal, any Magistrate in charge of a Division of a District may receive and try (without reference by the Magistrate of the District) all or any of such charges as he is now competent to try upon reference by the Magistrate of the District.

CHAPTER II.—Special Jurisdiction conferred by Government.

26. In any part of the territories not subject to

Jurisdiction of Chief Officer in Non-Regulation territory over offences not punishable with death.

the general Regulations of Bengal, Madras or Bombay, the Governor General in Council or the Local Government of such territory

may invest the chief officer charged with the executive administration of a district in criminal matters, by whatever designation such officer is called, with power to try all offences not punishable with death, and under the provisions of this Act to pass sentence of imprisonment for a term not exceeding seven years, including such solitary confinement as is authorized by law, or fine or both.

27. Such chief officer shall try as a Court of

His procedure in cases triable by the Court of Session.

Session offences which, under the second schedule hereto annexed, are triable by a Court of Session only, and in such trials shall be guided by

the provisions hereinafter contained relating to trials before Courts of Session.

28. The Local Government may invest any person with the powers of a Magistrate or of a Subordinate Magistrate of the first or second class, as described in section 22, with a view to the exercise by such person, within such local limits as the Local Government shall from time to time prescribe, of such powers under this Act or under any special or local law.

29. With the sanction of the Governor General in Council, the Local Government may delegate, with such limitations as it thinks proper, to any officer under its control, the power conferred upon it by section 28.

30. The Local Government may, by notification in the official Gazette prescribe the local jurisdiction of a Magistrate of the District as defined by section 11, and may by such notification from time to time alter such jurisdiction.

31. The Local Government may invest any Magistrate with the local jurisdiction in a particular part of a District declared by section 14 to be deemed a Division of a District, and may from time to time alter the limits of such local jurisdiction.

32. The Local Government may, with such limitations as it thinks proper, invest any Magistrate in charge of a Division of a District or any officer exercising the full powers of a Magistrate, with the authority conferred on the Magistrate of the District by sections 24, 94, 368, 458, 466 and 471.

33. The Local Government may empower any Subordinate Magistrate of the first or second class not invested with such power by any law for the time being in force, to hold the preliminary enquiry into cases triable by the Court of Session, or by any High Court, and may empower him to commit, or hold to bail, persons to take their trial before such Court of Session or High Court, and to exercise all the powers necessary for such purpose.

34. The Local Government may, by notification in the official Gazette, define what Magistrates or Subordinate Magistrates shall entertain cases either on complaint preferred directly to themselves or on report of a Police officer; and such Magistrates or Subordinate Magistrates shall be competent to entertain such cases, if the offence charged is triable by them or if they shall have been empowered under section 33.

35. The Magistrate of the District may, subject to the orders of the Local Government, empower any Magistrate or Subordinate Magistrate in his District to entertain cases

either on complaint preferred directly to themselves or on the report of a Police officer.

36. The Local Government may vary or cancel any powers with which any person may have been invested under this Act or any enactment hereby repealed.

37. When, in consequence of the office of the Magistrate of a District becoming vacant, any officer succeeds temporarily to the chief executive administration of the District in criminal matters, such officer shall, pending the orders of the Local Government, exercise all the powers and perform all the duties of the Magistrate of the District.

38. Whenever any person holding an office in the service of Government, who has been invested with any powers under this Act or any enactment hereby repealed in any District, is transferred to an equal or higher office of the same nature within another District, he shall, unless the Local Government otherwise directs, continue to exercise the same powers in the District to which he is so transferred.

39. When two or more persons authorized to exercise all or any of the powers of a Magistrate sit together for the despatch of business in any place, any summons, warrant or process or other proceeding, and any order, judgment, finding or sentence, signed by any two or more of them, shall be as valid to all intents and purposes as if it were solely signed, when the powers of one or more of them are higher than the powers of the others or other of them, by such one of them as has, or by one of such of them as have, been invested under section 28 with the highest of such powers, or, when their powers are equal, by any one of them.

40. All sentences heretofore passed by any Magistrates sitting together as aforesaid, shall be deemed to be as valid as if this Act had then been passed.

CHAPTER III.—Jurisdiction as to Persons.

41. The Criminal Courts shall have jurisdiction over all persons, except such persons as, by any Act of Parliament, or by any Regulation of the Codes of Bengal, Madras and Bombay, respectively, or by this Act or any other Act of the Governor General of India in Council, are, or shall be, exempted from their jurisdiction.

42. No person shall, by reason of place of birth, or by reason of descent, be exempt from the rules of criminal procedure contained in this Act:

Provided that nothing in this section shall be held to authorize the trial or commitment for trial before any Criminal Court of any person who, in respect of the offence with which he is charged, is not subject to the jurisdiction of that Court.

43. The Magistrate of the District, or any other officer exercising the powers of a Magistrate, may hold the preliminary enquiry into any cases triable by a High Court and may commit or hold to bail persons to take their trial before such Court, and may exercise all the powers necessary for such purpose.

44. Any Justice of the Peace may, and no other person shall, commit, or hold to bail, any European British subject to take his trial before a High Court.

45. When a European British subject is charged with an offence triable by a High Court, any Magistrate, or any subordinate Magistrate if he is empowered under section 33, but not otherwise, may hear the complaint against such person, and may issue a warrant of arrest, or hold to bail such person, with a view to the complaint being investigated by a Justice of the Peace.

46. When a European British subject has been arrested under a warrant issued under section 45 by a Magistrate not being a Justice of the Peace, if such Magistrate considers that there is sufficient ground for proceeding, he shall forthwith forward the person arrested to a Justice of the Peace, or, if the offence with which such person is charged is bailable and if sufficient bail be tendered, shall admit him to bail for his appearance before a Justice of the Peace.

When the person accused is brought or appears before a Justice of the Peace under this section, such Justice of the Peace shall himself hold the preliminary enquiry into the case, before he commits, or holds to bail, such person for trial before the High Court.

47. Every person exercising the full powers of a Magistrate, and being also a Justice of the Peace, shall have power to enquire into and determine in a summary way complaints of offences committed by a European British subject outside the local limits of the ordinary original criminal jurisdiction of the High Courts, and on which a summons ordinarily issues in the first instance, and, in case of conviction, to inflict on the offender a fine not exceeding five hundred rupees, and, in default of payment, imprisonment for a term not exceeding two months, in some place of confinement within the District, which, in the opinion of the Magistrate, is fit for receiving such offender, or, if there be no such place, then in the Presidency gaol.

48. All European and other subjects of Her Majesty,

and all persons who within a year before or after the commission of the offence with which they are charged have dwelt for six months within British India,

who are apprehended within British India or delivered into the custody of a Magistrate within British India wherever apprehended,

shall be amenable to the law for all offences committed by them within the territory of any Foreign Prince or State included within or adjacent

to any part of British India, and may be bailed or committed for trial as hereinafter provided, on the like evidence as would warrant their being held to bail or committed for the same offence if it had been committed within British India.

49. The committing Magistrate, immediately before the trial, shall report every such case to the Local Government, and shall obey the orders which he receives thereon.

50. The Local Government may order the trial to be had before one of the established Courts of Criminal Judicature, which would be competent to try the person charged for the offence, if it had been committed within British India.

51. When the offence is charged to have been committed in the territory of any Foreign Prince or State, administered by officers acting under the authority of Her Majesty, in which territory a Court competent to try the person charged for the offence is established by authority of the Governor General of India in Council, the Local Government may order such person to be conveyed in custody, out of British India, for the purpose of delivering him up for trial before such Court.

52. When the person charged is committed, the form of the warrant shall specify the commitment to be until the orders of the Local Government can be received and acted on ;

when he is bailed, the form of the bail-bond shall be, in the first instance, to appear before the Magistrate on a certain day assigned, allowing reasonable time for receipt of the orders of the Local Government, and on such subsequent days as the Magistrate from time to time requires ;

and if the Local Government shall order the person charged to be tried within the Presidency, the Magistrate may cause the bail-bond to be renewed in the usual form, to appear and take his trial at the Court appointed for the purpose.

53. In either case, the special order of the Local Government shall be deemed full authority, either for the trial and punishment of the person charged within British India, or for conveying him in custody out of British India as aforesaid.

54. The authority given to the Local Government by sections 48 to 53 (inclusive) may be also exercised by any Commissioner or other person acting in the Civil Service of Her Majesty, to whom the Governor General in Council delegates authority to receive reports and give orders in cases within section 48.

CHAPTER IV.—Where Offences shall be tried.

55. Except where otherwise expressly provided by this Act, every offence shall be enquired into and determined in the District in which the offence was committed :

Provided that nothing in this section shall exempt European British subjects from being tried and convicted before the High Courts for offences committed beyond the local limits of such Courts.

56. When a person is accused of the commission of any offence by reason of anything which has been done, and of any consequence which has ensued, such offence may be enquired into or determined in any District in which any such thing has been done or any such consequence has ensued.

57. The abetment of an offence, wherever such abetment has taken place, may be enquired into or determined in any District in which the offence abetted may be enquired into or determined by any Court having jurisdiction to try such offence, as if the abetment had been committed at the same place at which the offence abetted was wholly or partly committed;

or the abetment may be enquired into or determined in any District within which the abettor has done anything for abetting the commission of such offence.

58. When any offence is committed on the boundary or boundaries of two or more Districts, whether subject to the same Local Government or not,

or is begun in one District and completed in another, whether such Districts be subject to the same Local Government or not,

such offence may be enquired into or determined in any of such Districts, in the same manner as if it had been actually and wholly committed therein.

59. When any offence is committed on any person, or on, or in respect of, any property in or upon any coach, cart, or other carriage or conveyance, or upon any beast of burden employed in any journey,

or is committed on any person, or on, or in respect of, any property on board any vessel employed on any voyage or journey upon any navigable river, canal, or inland navigation,

such offence may be enquired into or determined in any District through any part whereof such coach, cart, carriage, conveyance, beast of burden, or vessel, has passed in the course of the journey or voyage during which such offence has been committed, in the same manner as if the offence had been actually and wholly committed in such District;

and in all cases where the side, middle or other part of any highway, or the side, bank, middle or other part of any such river, canal, or navigation, constitutes the boundary of any two Districts, such offence may be enquired into or determined in either of such Districts, through or adjoining to, or by the boundary of, any part whereof such coach, cart, carriage, conveyance, beast of burden or vessel, has passed in the course of the journey or voyage during which such offence has been committed, in the same manner as if it had actually and wholly been committed in such District.

60. If any person is charged with any offence punishable under section 411, 412 or 414 of the Indian Penal Code, under the head "Of the receiving of stolen property," such offence may be enquired into or determined in any District in which such person has, or has had, such stolen property in his possession, or in any District in which the offence by which such property came to be stolen property within the meaning of the said Code, may be enquired into or determined.

61. If any person be charged under section 368 of the Indian Penal Code, with the offence of wrongfully concealing, or keeping in confinement a person who has been kidnapped or abducted, such offence may be enquired into or determined in any District in which the concealment or confinement has taken place, or in any District in which the kidnapping or abduction may be enquired into or determined.

62. Whenever any person is charged with being a thug, Thuggee, dacoity, or with murder as a thug, or with dacoity with or without murder, or with having belonged to a gang of dacoits, or with having belonged to any wandering or other gang of thieves associated for the purpose of habitually committing theft or robbery and not being a gang of thugs or dacoits,

the offence may be enquired into in any District in which the accused person happens to be when charged or arrested, by any Magistrate competent to commit to a Court of Session,

and the accused person may be committed to the Court of Session to which such Magistrate is subordinate.

63. If any person escapes from any custody in which he is lawfully detained in pursuance of a sentence of a Court of Justice, or by virtue of a commutation of such sentence, or is charged with any offence punishable under section 227 of the Indian Penal Code, or under section 12 of Act No. XXIV of 1855 (relating to *Penal Servitude*),

the offence may be enquired into or determined, either in the District in which such person is apprehended and re-taken, or in the District in which he was formerly tried, or, in the case of an escape from custody, in the District in which he has escaped from custody.

64. Whenever any doubt arises as to the District in which any offence should be enquired into or determined, the High Court within whose jurisdiction the offender is apprehended may decide in which District the offence shall be determined.

65. The High Court may order the transfer of any particular criminal case or appeal from a Criminal Court subordinate to its authority, to any other such Criminal Court of equal or superior jurisdiction, or may order that any offence shall be enquired into or determined in any District or division of

a District, other than that in which the offence has been committed,

whenever it appears to such High Court that such order will promote the ends of justice, or tend to the general convenience of the parties or witnesses.

PART II.

PROCEEDINGS TO COMPEL APPEARANCE.

CHAPTER I.—Preliminary Enquiry by Police.

66. Any Magistrate may, upon the report of a Police officer or otherwise, direct enquiry to be made by a Police officer into any offence punishable under the Indian Penal Code or under any special or local law.

67. Any Police officer may, without an order from a Magistrate, enquire into and take cognizance of the offences described in column three of the second schedule annexed to this Act as offences for which a Police officer may arrest without warrant, but he shall not, without such order, enquire into or take cognizance of any other offences except as hereinafter provided.

68. Nothing in section 67 shall be held to interfere with the exercise of any powers vested in a Police officer by any special or local law, or with the performance of any duty which is imposed upon a Police officer by any such special or local law.

69. Every person aware of the commission of any offence made punishable under sections 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 456, 457, 458, 459 or 460 of the Indian Penal Code, shall give information of the same to the nearest Police officer, whenever such person has reason to believe that, if such information be withheld, the offender may not be brought to justice, or may have his escape facilitated.

70. Every complaint or information preferred to an officer in charge of a Police station shall be reduced into writing, and the substance thereof shall be entered in a diary to be kept by him in the form prescribed by the Local Government.

71. Upon complaint or information being preferred to an officer in charge of a Police station of the commission, within the limits of such station, of any of the offences specified in column three of the second schedule hereto annexed as offences for which Police officers may arrest without warrant, he shall send immediate intimation to the Magistrate of the District or the Magistrate in charge of a division of the District, and shall proceed in person or shall depute one of his subordinate officers to proceed to the spot to enquire into the facts and circumstances of the case, and to take such measures as may be necessary for the discovery and apprehension of the offender.

Any Magistrate, on receiving intimation of the commission of any such offence, may at once proceed, or depute an officer exercising any of the powers of a Magistrate to proceed, to hold a preliminary enquiry into or otherwise to dispose of such case in the manner provided in this Act.

72. Provided that, when any complaint is made against any person by name and the case is not of a serious nature, the officer in charge of a Police-station need not proceed in person or depute a subordinate officer to make an enquiry on the spot, unless such local enquiry appears to be necessary.

73. Provided also that, if it appear to the officer in charge of a Police-station that there is no sufficient ground for entering on an enquiry, or that the immediate apprehension of the accused is not necessary for the ends of justice, he shall not proceed in the case, but shall report the substance of the complaint or information for the orders of the Magistrate having jurisdiction.

74. An officer in charge of a Police-station may, by an order in writing, require the attendance before himself of any person being within the limits of his station, who, from the statement of the complainant or otherwise, appears to be acquainted with the facts and circumstances of any case into which he is enquiring under section 71, and such person shall obey such requisition.

75. An officer in charge of a Police-station or other Police officer making an enquiry may examine orally any person supposed to be acquainted with the facts and circumstances of the case, and may reduce into writing any statement made by the person so examined.

No statement so reduced into writing shall be signed by the person making it, nor shall it be treated as part of the record nor used as evidence.

76. No Police officer or other person shall offer any inducement to an accused person by threat or promise or otherwise to make any disclosure or confession.

77. No Police officer shall record any statement or any admission or confession of guilt, which may be made before him by a person accused of any offence:

Provided that nothing in this section shall preclude a Police officer from reducing any such statement or admission or confession into writing for his own information or guidance.

78. No confession or admission of guilt made to a Police officer, shall be used as evidence against a person accused of any offence.

79. No confession or admission of guilt made by any person whilst he is in the custody of a Police officer, shall be used as evidence against such

person, unless it be made in the immediate presence of a Magistrate.

80. Provided that, when any fact is deposed to in evidence as discovered in consequence of information received from a person accused of any offence, or in the custody of a Police officer, so much of such information, whether it amounts to a confession or admission of guilt or not, as relates distinctly to the fact thereby discovered may be received in evidence.

81. If the person arrested appears from the information obtained to have committed the offence charged, and the offence is not bailable, the officer in charge of the Police-station shall forward him under custody to the Magistrate having jurisdiction in respect of the offence, and shall bind over the prosecutor and witnesses to appear on a fixed day before such Magistrate.

When any subordinate Police officer has made any enquiry under this chapter, he shall, if so required by the officer in charge of the Police-station, submit a report of such enquiry to him, or he may do so without such requisition, and the officer in charge of the Police-station shall then proceed as if he had made the enquiry himself.

82. No Police officer shall, without the special order of a Magistrate, detain an accused person in custody for a longer period than, under all the circumstances of the case, is reasonable; and such period shall in no case exceed twenty-four hours.

If the enquiry has not been completed within twenty-four hours, and if there are grounds for believing that the accusation is well founded, the officer in charge of the Police-station shall forward the accused person to the Magistrate, with a short despatch stating the offence for which he has been arrested.

83. If it appears to the officer in charge of the Police-station that there is not sufficient evidence or reasonable ground of suspicion to justify the transmission of the accused person to the Magistrate, such officer shall release the accused person on bail, or on his own recognizance, to appear when required, and shall submit a report of the case for the orders of the Magistrate.

84. A Police officer making an enquiry under this chapter, shall day by day enter his proceedings in a diary, setting forth the time at which the complaint or other information reached him, the time at which he began and closed his enquiry, the place or places visited by him, and a statement of the circumstances elicited by his enquiry.

He shall forward day by day a copy of such diary to the District Superintendent of Police, who shall without delay bring to the notice of the Magistrate of the District any part of such diary which he considers it to be important that such Magistrate shall know.

The Magistrate of the District may call for and inspect such diary.

In cases where there is no District Superintendent of Police, the Police officer shall forward

day by day a copy of the diary to the Magistrate of the District.

Such diary shall not be evidence of the facts stated therein, except against the Police officer who made it.

85. The enquiry shall be completed without unnecessary delay, and, as soon as it is completed, the Police officer making the same shall forward to the Magistrate a report in the form prescribed by the Local Government, setting forth the names of the parties, the nature of the complaint, and the names of the witnesses, without any expression of opinion as to the guilt of the accused person, and shall also send to the Magistrate any weapon or article which it may be necessary to produce before him.

The Police officer shall state whether the accused person has been forwarded in custody, or has been released on bail or on his own recognizance.

If the accused person be detained in custody, the Police officer shall state the fact and the cause of his detention.

86. A person accused of any offence entered as not bailable in column five of the second schedule hereto annexed, shall not be admitted to bail, if there appear reasonable ground for believing that he has been guilty of the offence imputed to him.

But a person accused of any offence entered as bailable shall be admitted to bail, if sufficient bail be tendered for appearance before the Magistrate having jurisdiction in respect of the offence.

87. The bail to be taken under section 86 shall not be excessive; and the surety or sureties shall bind himself or themselves under a specific penalty to produce the accused person before the Magistrate on or before a fixed day, to answer the complaint.

88. Every prosecutor and witness whose attendance before the Magistrate is deemed necessary by the Police officer making the enquiry, shall execute a recognizance in the Form (E) given in the appendix hereto, or to the like effect, for appearance before the Magistrate having jurisdiction in respect of the offence on a fixed day.

Such day shall be the day whereon the accused person is to appear, if he has been admitted to bail, or the day on which he may be expected to arrive at the Court of the Magistrate, if he is to be forwarded in custody.

The officer in whose presence the recognizance is executed shall, after delivering to the prosecutor or one of the witnesses a duplicate thereof, send it with his report to the Magistrate.

No Police officer shall accompany the prosecutor or witnesses on his or their way to the Court of the Magistrate.

89. A Police officer shall not subject any prosecutor or witness to restraint or unnecessary inconvenience, nor require him to give any other security for his appearance than his own recognizance.

But if any prosecutor or witness refuses to attend, or to execute the recognizance directed in section 88, the officer in charge of a Police-station may forward him under custody to the Magistrate, who may detain him in custody until he executes such recognizance, or until the hearing before the Magistrate.

90. Officers in charge of Police-stations shall report to the Magistrate of the District the cases of all persons apprehended within the limits of their respective stations, whether such persons have been admitted to bail or otherwise.

No person who has been apprehended shall be discharged, except on bail or on his own recognizance, or under the special order of a Magistrate.

91. The officer in charge of a Police-station, on receiving notice or information of the unnatural or sudden death of any person, shall immediately give intimation thereof to the nearest Magistrate, and proceed to the place where the body of such deceased person is, and there in the presence of two or more respectable inhabitants of the neighbourhood, shall make enquiry, and report the apparent cause of death, describing any mark of violence which may be found on the body, and stating in what manner or by what weapon or instrument such mark appears to have been inflicted.

The report shall be signed by such Police officer and other persons or by so many of them as concur therein, and shall be forthwith forwarded to the Magistrate.

When there is any doubt regarding the cause of death, the Police officer shall forward the body, with a view to its being examined, to the nearest Civil Surgeon or other medical officer appointed in this behalf by the Local Government, if the state of the weather and the distance admit of its being so forwarded without risk of putrefaction on the road.

In the Presidencies of Madras and Bombay, the Head of the village shall make the enquiry and report as aforesaid.

92. The powers to be exercised by an officer in charge of a Police-station under this chapter shall be exercised, in the event of his absence or illness, by the Police officer next in rank present at the Police-station, above the rank of a constable.

CHAPTER II.—Of Complaint in order to the issue of a Summons or Warrant.

93. A summons or warrant of arrest may be obtained on a complaint.

94. When, in order to the issuing of a summons or a warrant against any person for any offence, a complaint is made before the Magistrate of the District or a Magistrate authorized to receive such complaint without reference from the Magistrate of the District, such Magistrate shall examine the complainant.

The examination shall be reduced into writing and signed by the complainant, and also by the Magistrate.

95. The Magistrate before whom such complaint is duly made shall, if it appear to him that there is sufficient ground for proceeding, issue his summons, or, in cases in which a warrant may issue, his warrant, for causing the person accused to appear before himself or some other Magistrate having jurisdiction.

If in the judgment of the Magistrate before whom the complaint is made there be no sufficient ground for proceeding, he shall dismiss the complaint.

96. Except as is otherwise provided in Part X of this Act, the Magistrate of the District, or a Magistrate in charge of a division of a District, may, without any complaint, take cognizance of any offence which may come to his knowledge and may issue a summons, or, in cases where a warrant may issue, a warrant of arrest, against the person known or suspected to have committed such offence, in the same manner as if a complaint had been made against such person.

The provisions of this section shall not apply to the offences described in chapters XIX, XX and XXI of the Indian Penal Code.

97. When a complaint is made before a Magistrate having jurisdiction in the case that any person has committed or is suspected of having committed any offence triable by such Magistrate and punishable with fine only or with imprisonment for a period not exceeding six months, the Magistrate may issue his summons directed to such person requiring him to appear at a certain time and place before such Magistrate to answer to the complaint.

If the Magistrate believes that the accused person is about to abscond, he may, instead of issuing a summons, issue a warrant in the first instance for the arrest of such person.

98. If the person served with a summons does not appear before the Magistrate at the time mentioned in such summons, and the Magistrate is satisfied that such summons was duly served in what the Magistrate deems a reasonable time before the time therein appointed for appearing to the same,

or if it appears to the Magistrate that, after due diligence, the summons could not be served according to the provisions of this Act,

the Magistrate may issue his warrant to apprehend the accused person.

99. When a complaint is made before a Magistrate having jurisdiction in the case that any person has committed or is suspected of having committed any offence triable by such Magistrate and punishable with imprisonment for a period exceeding six months,

or when a complaint is made before any Magistrate or Subordinate Magistrate or other officer empowered to commit persons for trial before the Court of Session that any person has committed

or is suspected of having committed any offence triable exclusively by the Court of Session or which in the opinion of such Magistrate or officer ought to be tried by the Court of Session,

such Magistrate may issue his warrant to arrest such person, or, if he thinks fit, his summons requiring him to appear to answer such complaint.

100. If the Magistrate sees cause to distrust the truth of the complaint, he may postpone the issuing of process for causing the attendance of the person complained against, and direct a previous enquiry to be made into the truth of the complaint, either by means of any officer subordinate to such Magistrate, or of a local Police officer, or in such other mode as he thinks fit, for the purpose of ascertaining the truth or falsehood of the complaint.

If such enquiry is made by means of some person other than an officer exercising any of the powers of a Magistrate or a Police officer, such person shall exercise all the powers conferred by this Act on an officer in charge of a Police-station, except that he shall have no power to make an arrest.

Nothing contained in this section shall prevent the Magistrate from at once dismissing the complaint, if in his judgment there be no sufficient ground for proceeding with it.

101. It shall be in the discretion of the Magistrate, in issuing his warrant for the arrest of any person against whom a complaint has been made, to direct by endorsement on the warrant that, if he be willing and ready to give bail in a sum to be fixed by the Magistrate for his appearance before the Magistrate to be named in the warrant on a specified day to answer the complaint, the officer to whom the warrant is directed shall accept such bail, and shall release from custody the person complained against.

In the event of bail being given, the officer shall forward the bail-bond to the Magistrate.

102. Whether a warrant or a summons be issued, the Magistrate may, if he sees sufficient cause, dispense with the personal attendance of the accused person and permit him to appear by an agent duly authorized to act in his behalf.

But it shall be in the discretion of the Magistrate at any stage of the proceedings to direct the personal attendance of the accused person.

103. If any person accused of an offence absconds or conceals himself, so that, upon a warrant issued against him, he cannot be found, the Magistrate shall, if satisfied that he absconds or conceals himself for the purpose of avoiding the service of the warrant, issue a written proclamation, requiring him to appear to answer the complaint within a fixed period not less than thirty days.

The proclamation shall be publicly read in some conspicuous place of the town or village in which the accused person usually resides, and shall be affixed on some conspicuous part of his ordinary

place of abode, or on some conspicuous place of such town or village.

A copy of the proclamation shall also be affixed on some conspicuous part of the Magistrate's Court-house.

104. The Magistrate may, at the same time, order the attachment of any moveable or immoveable property belonging to the person absconding or concealing himself.

Such order shall not authorize the attachment of any property out of the jurisdiction of the Magistrate by whom it is made, but it shall authorize the attachment of property in the jurisdiction of any Magistrate by whom the order is endorsed.

The attachment under this section shall, if the property ordered to be attached be land paying revenue to Government, be made through the Collector of the District in which the land is situate, and, in all other cases, by seizure under the order of the Magistrate or by the appointment of a manager and receiver, or by an order prohibiting the payment of rent to the absent person, as the Magistrate deems proper.

If the absent person does not appear within the time specified in the proclamation, the property under attachment shall be declared to be at the disposal of Government, but shall not be sold until the expiration of six months, unless it is of a perishable nature, or the Magistrate considers that the sale would be for the benefit of the owner.

105. When any person whose property has been declared to be at the disposal of Government under section 104, appears or is found within two years after the attachment of the property, and proves to the satisfaction of the Court trying him for the offence of which he was accused, or, if not tried or committed for trial for that offence, to the satisfaction of the Magistrate of the District, that he did not abscond or conceal himself for the purpose of evading justice, such property, or, if the same has been sold, the proceeds thereof, shall be restored to him.

CHAPTER III.—Of the Summons.

106. Every summons issued by a Magistrate to an accused person shall be in writing and shall be signed and sealed by such Magistrate, and shall be in the Form (A) given in the appendix to this Act, or to the like effect.

107. A summons shall ordinarily be issued through a Police officer; but the Magistrate issuing the summons may, if he sees fit, direct it to be served by any other person.

108. The summons shall be served on the accused personally, by exhibiting the original and delivering or tendering a copy to him, or, in case the accused person cannot be found, the copy may be left for him with some adult male member of his family residing with him.

109. When the accused person cannot be found, and there is no adult male member of his family on whom the service can be made, the serving officer shall fix a copy of the

summons on some conspicuous part of the house in which the accused person ordinarily resides.

110. A Magistrate may (notwithstanding such summons), either before the appearance of the accused person as required by such summons, or after default made by him so to appear, issue a warrant of arrest against such person.

111. The Magistrate of the District or a Magistrate in charge of a division of a District, may issue a summons or warrant for the apprehension of any person within such District or division of a District in respect of any offence known or suspected to have been committed by such person in a different District or division of a District, or on the high seas, or in a foreign country, and for which, if committed within the jurisdiction of such Magistrate, he might issue a summons or warrant.

112. The provisions relating to a summons and its service and issue contained in this chapter, shall be applicable to every summons issued under this Act, except summonses to serve as a juror or assessor:

Provided that, when the person summoned is in the service of Government or of any Railway Company, the Court or Magistrate issuing the summons may send the summons to the head of the office in which the person summoned is employed, and such head shall thereupon cause the summons to be served on the person named therein.

CHAPTER IV.—Of the Warrant.

113. Every warrant issued by a Magistrate shall be in writing, and shall be signed and sealed by such Magistrate, and shall be in the Form (B) given in the appendix to this Act, or to the like effect.

114. A warrant shall ordinarily be directed to a Police officer, but the Magistrate issuing a warrant may, if he see fit, direct it to any other person.

115. When a warrant is directed to a person other than a Police officer, any other person may aid in executing such warrant, if the person to whom the warrant is directed be near at hand and acting in the execution of the warrant.

116. A warrant may be directed to several persons, and when so directed, may be executed by all, or by any one or more of such persons.

117. A warrant directed to a Police officer may also be executed by any other Police officer whose name is endorsed upon the warrant by the officer to whom the warrant is directed.

118. The Magistrate by whom a warrant of arrest is issued, may attend personally for the purpose of seeing that the warrant is duly executed.

The Magistrate may also at any time direct the arrest in his presence of any person for whose arrest he is competent to issue a warrant.

119. Every person is bound to assist a Magistrate or Police officer demanding his aid in the prevention of a breach of the peace,

or in the suppression of a riot or an affray, or in the taking of any other person whom such Magistrate or Police officer is authorized to arrest.

120. A warrant issued by a Magistrate shall ordinarily be executed (unless it be specially otherwise provided) within the jurisdiction of the Magistrate of the District in which it was issued.

121. When any person against whom a warrant is issued by a Magistrate escapes, goes into, or is in, any place out of the jurisdiction of the Magistrate issuing such warrant, the warrant may be executed in such place.

If the person against whom the warrant is issued is arrested in such place, the Police officer or other person executing the warrant shall (subject to the provisions of section 122) take him before the Magistrate of the District, or some other Magistrate within whose jurisdiction the arrest was made.

If the offence with which the person arrested is charged be bailable, and he is willing and ready to give bail for his appearance before the Magistrate by whom the warrant was issued, the Magistrate before whom he is brought shall take bail of him for his appearance accordingly, and shall release him from custody, and forward the recognizance or other bail-bond to the Magistrate by whom the warrant was issued.

If the offence be not bailable, or if the person arrested be unable to find bail, he shall be forwarded to the Magistrate by whom the warrant was issued.

If the arrest be made within the local limits of a High Court, the person accused, when arrested, shall be taken before the Chief Commissioner of Police or a Police Magistrate.

Such Chief Commissioner or Police Magistrate shall forward the person arrested to the Magistrate by whom the warrant was issued, or, if the offence with which the person arrested is charged be bailable, shall admit him to bail, and shall forward the recognizance or other bail-bond to such Magistrate.

122. If the place of arrest under section 121 be within twenty miles from the place at which the warrant was issued, the person arrested may be taken, in the first instance, before the Magistrate who issued the warrant.

123. A Magistrate issuing a warrant for the arrest of a person out of his jurisdiction, may direct the warrant to any Magistrate within whose jurisdiction such person is, or is supposed to be, and may send the same by post.

On receipt of the warrant by the Magistrate to whom it is directed, he shall endorse his name thereon, and enforce its execution in the same manner as if the warrant had been originally issued by himself.

If the person named in the warrant be apprehended, he shall be carried before the Magistrate who endorsed it, and shall be dealt with by such Magistrate as provided in section 121.

124. A warrant issued under section 121 for execution within the local limits of a High Court, shall be directed to the Chief Commissioner of Police or to a Police Magistrate, who shall proceed in the manner provided in section 121.

125. On the arrest of a person for whose apprehension a warrant has been issued under the provisions of section 111, in respect of an offence known or suspected to have been committed in another District or division of a District, the Magistrate who issued the warrant shall, unless he is authorized to complete the enquiry himself, send the person arrested to the Magistrate within the limits of whose jurisdiction the offence is known or suspected to have been committed, or take bail for his appearance before such Magistrate, if the offence of which such person is suspected is bailable.

When the Magistrate who issued the warrant cannot satisfy himself as to the Magistrate to whom the person arrested should be sent, the case shall be reported for the orders of the High Court.

126. If the arrest was made under a warrant issued under section 111 by a Magistrate subordinate to the Magistrate of the District, such Magistrate shall send the person arrested to the Magistrate of the District, unless the Magistrate in whose jurisdiction the offence is suspected to have been committed issues his warrant for the arrest of such person, in which case the person arrested shall be delivered to the Police officer or other person executing such warrant, or shall be sent to the Magistrate by whom such warrant was issued.

If the offence of which the person arrested is suspected has been committed in the jurisdiction of another Subordinate Court of the same District, the Magistrate who issued the warrant under section 111 shall send the person arrested to the Magistrate in charge of the division in which the offence was committed.

127. A Police officer or other person executing a warrant of arrest, shall notify the substance of the warrant to the person to be arrested, and, if required to do so, shall show the warrant to such person.

128. In making an arrest, the Police officer or other person executing the warrant shall actually touch or confine the body of the person to be arrested, unless there be a submission to the custody by word or action.

129. If a person against whom a warrant of arrest is issued forcibly resists the endeavour to arrest him, the Police officer or other person executing the warrant may use all means necessary to effect the arrest.

130. If there is reason to believe that any person against whom a warrant has been issued has entered into, or is within, any house or place, it shall be the duty of any person residing in or in charge of such house or place, on demand of the Police officer or other person executing the warrant, to allow such Police officer or other person free ingress thereto, and to afford all reasonable facilities for a search therein.

131. The Police officer or other person authorized by warrant to arrest a person, may break open any outer or inner door or window of any house or place, whether that of the person accused or of any other person, in order to execute such warrant, if, after notification of his authority and purpose and demand of admittance duly made, he cannot otherwise obtain admittance.

132. If information be received that a person accused of any offence for which a warrant may issue is concealed in an apartment in the actual occupancy of a woman who, according to the customs of the country, does not appear in public, the Police officer or other person employed to execute the warrant shall take such precautions as may be necessary to prevent the escape of the accused person.

If the accused person does not deliver himself up, the Police officer or other person authorized to execute the warrant may notify his authority and purpose, and demand admittance.

If after such notification and demand he cannot otherwise obtain admittance, he shall give notice to any woman as aforesaid in such apartment, not being a person against whom a warrant has been issued, that she is at liberty to withdraw, and afford her every reasonable facility for withdrawing, and may then break open the apartment and execute the warrant.

133. The person arrested shall not be subjected to more restraint than is necessary to prevent his escape.

134. The officer or other person executing the warrant shall, without unnecessary delay, bring the person arrested before the Magistrate before whom he is required by this Act to produce him.

135. No Police officer or other person shall offer to the person arrested any inducement, by threat or promise or otherwise, to make any disclosure.

But no Police officer or other person shall prevent the person arrested, by any caution or otherwise, from making any disclosure which he may be disposed to make of his own free will.

136. The provisions relating to a warrant and its service and issue contained in this chapter, shall be applicable to every warrant of arrest issued under this Act.

Provisions as to warrant and its service and issue applicable to all warrants of arrest.

CHAPTER V.—Arrest without Warrant.

137. A Police officer may, without orders from a Magistrate and without a warrant, arrest,—

First.—Any person who in the sight of such Police officer shall commit an offence specified in column three of the second schedule hereto annexed as an offence for which Police officers may arrest without a warrant.

Secondly.—Any person against whom a reasonable complaint has been made or a reasonable suspicion exists of his having been concerned in any such offence.

Thirdly.—Any person against whom a hue and cry has been raised of his having been concerned in any such offence.

Fourthly.—Any person who is a proclaimed offender.

Fifthly.—Any person found with stolen property in his possession.

Sixthly.—Any person who obstructs a Police officer while in the execution of his duty, and,

Seventhly.—Any deserter from Her Majesty's Army or Her Majesty's Indian Army.

138. Any person known or suspected to have committed an offence for which a Police officer is not authorized to arrest without a warrant, and who refuses on demand of a Police officer to give his name and residence,

or gives a name or residence which there is reason to believe to be false,

may be detained by such Police officer for the purpose of ascertaining the name or residence of such person and with a view to future proceedings.

139. An officer in charge of a Police-station may, without orders from a Magistrate and without a warrant, arrest or cause to be arrested any person found lurking within the limits of such station who has no ostensible means of subsistence, or who cannot give a satisfactory account of himself,

or any person who is a reputed robber, house-breaker, thief, receiver of stolen property knowing it to be stolen,

or who is of notoriously bad livelihood.

140. Every Police officer shall prevent, and he may interpose for the purpose of preventing, the commission of any offence specified in column three of the second schedule hereto annexed as an offence for which Police officers may arrest without a warrant.

Police to prevent certain offences.

141. Every Police officer, receiving information of a design to commit any such offence, shall communicate such information to the Police officer to whom he is subordinate, and to any other officer whom it may concern to prevent or take cognizance of the commission of any such offence.

142. A Police officer knowing of a design to commit any such offence may arrest, without orders from a Magistrate and without a warrant, the person so designing, if the commission of the offence cannot be otherwise prevented.

143. A Police officer may, of his own authority, interpose for the prevention of any injury attempted to be committed in his view to any public building, work of art, road, bridge, tank, well, or water-channel,

or to prevent the removal or injury of any public land-mark or buoy, or other mark used for navigation.

144. If there is reason to believe that any person liable to arrest under this chapter without a warrant, of whom a Police officer is in search, has entered into or is within any house or place, it shall be the duty of the person residing in or in charge of such house or place, on the demand of such Police officer, to allow ingress thereto, and all reasonable facilities for a search therein.

145. If ingress to such house or place cannot be obtained under section 144, the Police officer authorized to make the arrest shall take such precautions as may be necessary to prevent the escape of the person to be arrested and send immediate information to a Magistrate.

If no warrant can be obtained without affording such person an opportunity of escape, and there is no person authorized to enter without a warrant on the spot, the Police officer may make an entry into such house or place and search therein.

146. A Police officer making an arrest under this chapter shall, without unnecessary delay, take or send the person arrested before the Magistrate having jurisdiction in the case, or before the officer in charge of a Police-station.

147. When any offence is committed in the presence of a Magistrate, he may order any person to arrest the offender, and may thereupon commit him to custody, or, if the offence is bailable, may admit him to bail.

148. A Magistrate or officer in charge of a Police-station may command an unlawful assembly to disperse, and it shall thereupon be the duty of the members of such assembly to disperse accordingly.

149. If a person lawfully arrested under the provisions of this Act escapes or is rescued, the Police officer or other person from whose custody the person arrested has escaped or has

Information of design to commit such offences.

Arrest to prevent such offences.

Injury to public property.

Ingress to be allowed into house entered by person of whom Police in search.

Procedure where ingress not obtainable.

Person arrested to be taken before Magistrate or officer in charge of Police-station.

Offence committed in Magistrate's presence.

Unlawful assembly to disperse on order.

Re-taking of person escaped.

been rescued, may make fresh pursuit, and take him in any place, either within or without the jurisdiction where he was so in custody, and may deal with such person as such Police officer or other person might have done on an original taking.

150. In order to re-take any person, as provided in section 149, the Police officer or other person making such fresh pursuit may adopt the same measures as he might have adopted on the original taking.

Course to be followed in order to re-take.

151. When any officer in charge of a Police-station requires any officer subordinate to him to make without a warrant an arrest which may lawfully be made by such officer without a warrant, he shall deliver to the Police officer required to make the arrest, an order in writing, specifying the person to be arrested, and the offence for which the arrest is to be made.

Procedure when Police officer deputed subordinate to arrest without warrant.

The provisions of sections 119 and 127 to 133 (inclusive) shall apply to every order in writing issued under this section.

152. For the purpose of arresting any person accused of any of the offences specified in column three of the second schedule hereto annexed as offences for which Police officers may arrest without a warrant, a Police officer may pursue any such person into the limits of another Police officer, whether subordinate to the same Magistrate as himself, or to the Magistrate of any other District, and whether such place be under the same Local Government or not.

153. Any person attending the Court of the Magistrate, although not upon an arrest or summons on a charge made, may be detained by the Magistrate for the purpose of examination, for any offence which from the evidence he may appear to have committed, and may be proceeded against as though he had been arrested or summoned on a charge made.

Detention of offenders attending Court.

PART III.

INQUIRY AND TRIAL.

CHAPTER I.—Preliminary.

154. Every person charged before any Criminal Court with an offence may of right be defended by any barrister or attorney of a High Court, or by any pleader duly qualified under the provisions of Act No. XX of 1865, or any other law in force for the time being relating to pleaders.

Any such person may, with the permission of the Court (but not otherwise), employ any mukhtár or other person not being a barrister, attorney, or pleader, to assist him in his defence.

155. The place in which the Court of a Magistrate is held for the trial of any complaint or for the purpose of conducting any preliminary investigation into any case triable by a Court of Session or

Magistrate's Court to be open.

the High Court or any Superior Court, shall be deemed an open and public Court, to which the public generally may have access, so far as the same can conveniently contain them.

But any such Court may, if it think fit, order that, during the investigation into any particular case triable by a Court of Session or by the High Court, no person shall have access to or be or remain in such room or building without the consent or permission of the Court.

CHAPTER II.—Cases usually tried by Magistrates upon Summons.

156. The following procedure shall be observed in cases usually tried by Magistrates upon summons.

Procedure in cases tried upon summons.

157. If upon the day appointed, the accused person appears voluntarily in obedience to the summons in that behalf served upon him, or is brought before the Magistrate by virtue of a warrant, it shall be at the discretion of the Magistrate to admit him to bail, or allow him to be at large upon his personal recognizance, as the Magistrate directs.

Defendant may be admitted to bail or allowed to be at large on his personal recognizance.

If the accused person cannot give bail when required to do so, he shall be committed to custody.

158. If upon the day appointed for the appearance of the accused person, or any day subsequent thereto on which the case may be called on, the complainant does not appear, the Magistrate shall dismiss the complaint, unless for some reason he thinks proper to adjourn the hearing of the same to some other day, upon such terms as he thinks fit.

Non-appearance of complainant.

159. On the appearance of both parties on the day fixed for the trial, the substance of the complaint shall be stated to the accused person, and he shall be asked if he has any cause to show why he should not be convicted.

Substance of complaint to be stated.

If the accused person admit the truth of the complaint, and show no sufficient cause why he should not be convicted, the Magistrate may convict him accordingly.

Conviction on admission of truth of complaint.

160. If the accused person do not admit the truth of the complaint, the Magistrate shall proceed to hear the complainant and such witnesses as he produces in support of his complaint, and also to hear the accused person and such witnesses as he produces in his defence.

Procedure when no such admission is made.

161. Before or during the hearing of any complaint, the Magistrate may adjourn the hearing of the same to a day to be then appointed and stated in the presence and hearing of the party or parties.

Adjournment.

If on the day to which such hearing or such further hearing has been so adjourned, the accused person does not appear, the Magistrate may issue his warrant for the arrest of such person.

If the complainant does not appear the Magistrate may dismiss the complaint.

162. Whenever the Magistrate dismisses the

Compensation in cases of frivolous or vexatious complaints.

complaint as frivolous or vexatious, he may, in his discretion, by his order of dismissal, award that the complainant shall pay to the accused person such compensation, not exceeding fifty rupees, as to such Magistrate seems just and reasonable.

In such cases, if more persons than one are accused, the Magistrate may in like manner award compensation not exceeding fifty rupees to each of them.

The sum so awarded shall be recoverable by dis-

Recovery of such compensation.

trict and sale of the movable property belonging to the complainant, which may be found within the jurisdiction of the Magistrate of the District, and, in default of such distress, by imprisonment of the complainant in the civil jail, for any time not exceeding thirty days, unless such sum is sooner paid.

163. If a complainant at any time before a

Withdrawal of complaint.

final order is passed in any case under this chapter satisfies the Magistrate that there are sufficient grounds for permitting him to withdraw his complaint, the Magistrate may permit him to withdraw it.

A complaint withdrawn under this section shall not again be entertained.

164. If the Magistrate, in any case tried

Acquittal.

under this chapter, finds the accused person not guilty, he shall record a judgment of acquittal.

If the accused person is convicted, the Magis-

Sentence.

trate shall pass sentence upon him according to law.

When the personal attendance of the accused person during the trial has been dispensed with, the sentence of the Magistrate, if the sentence be for fine only, may be pronounced in the presence of the agent, if the accused person has been permitted to appear by agent, or the accused person may be required to attend to hear such sentence.

CHAPTER III.—*Cases usually tried by Magistrates upon Warrant, and preliminary inquiries before Magistrates in cases triable by the Court of Session.*

165. The following procedure shall be observed

Procedure in cases tried upon warrant.

in cases usually tried before Magistrates upon warrant and in preliminary inquiries before Magistrates in cases triable by the Court of Session.

166. When the person against whom the war-

Examination of complainant and witnesses for prosecution.

rant is issued appears or is brought before the Magistrate, or if his personal attendance is dispensed with, when the Magistrate thinks fit, the Magistrate shall take the evidence of the complainant and of such persons as are stated to have any knowledge of the facts which form the subject matter of the accusation and the attendant circumstances.

167. The complainant and the witnesses for the

Examination to be in presence of accused.

prosecution shall be examined in the presence of the accused person, or of his agent when his personal

attendance is dispensed with and he appears by agent.

The accused person or his agent shall be per-

Accused may cross-examine.

mitted to cross-examine the complainant and his witnesses.

168. The Magistrate may at any stage of the

Power of Magistrate to summon and examine any person.

proceedings summon and examine any person whose evidence he considers essential to the enquiry.

169. The Magistrate may from time to time,

Examination of accused.

at any stage of the enquiry, examine the accused person, and put such questions to him as he considers necessary.

It shall be in the option of the accused person to answer such questions.

170. If from the absence of a witness or from

Adjournment of enquiry and remand.

any other reasonable cause, it becomes necessary or advisable to defer the examination, or further examination, of witnesses, the Magistrate may, by a written order, from time to time, adjourn the enquiry, and remand the accused person for such time as is deemed reasonable, not exceeding fifteen days:

Provided that, instead of detaining the accused person in custody during the period for which he is so remanded, the Magistrate may discharge him, upon his entering into a recognizance, with or without a surety or sureties, at the discretion of such Magistrate, conditioned for his appearance before the Magistrate at the time and place appointed for the continuance of such examination.

171. When the evidence of the complainant

Discharge of accused.

and of the witnesses for the prosecution, and such examination of the accused person as the Magistrate considers necessary, have been taken, the Magistrate, if he finds that no offence has been proved against the accused person, and that there are not sufficient grounds for committing him to take his trial before the Court of Session, shall discharge him.

172. If the Magistrate finds that an offence is

Charge when offence is apparently proved.

apparently proved against the accused person, which falls within the definition in a certain section of the Indian Penal Code, or within one or other of the definitions in several sections of the said Code, and if the Magistrate is competent to try such offence and thinks he ought to try it, he shall prepare in writing a charge against the accused person.

173. The charge shall then be read to the

Plea.

accused person, and he shall be asked whether he is guilty or has any defence to make.

174. If the accused person have any defence

Defence.

to make to the charge, he shall be called upon to enter upon the same, and to produce his witnesses if in attendance, and shall be allowed to recall and cross-examine the witnesses for the prosecution.

175. If the Magistrate finds the accused person

Acquittal.

not guilty, he shall record judgment of acquittal.

If the accused person is convicted, the Magistrate shall pass sentence upon him according to law.

176. When evidence has been given before a Magistrate which appears to be sufficient for the conviction of the accused person of an offence which is triable exclusively by the Court of Session, or which, in the opinion of the Magistrate, is one that ought to be tried by the Court of Session, the accused person shall be sent for trial by the Magistrate before the Court of Session.

If the Magistrate is a Justice of the Peace and the accused person is a European British subject, the Magistrate shall ask the accused person whether he wishes to be tried by the High Court or the Court of Session,

and if the accused person says that he wishes to be tried by the High Court, he shall be sent for trial accordingly.

But if he says that he wishes to be tried by the Court of Session, the Magistrate shall, in his discretion, send the accused person for trial before the Court of Session or the High Court, as the Magistrate thinks fit.

177. When the Magistrate determines to send the accused person before the Court of Session for trial, he shall make a written instrument under his hand and seal, declaring with what offence the accused person is charged, and shall direct him to be tried by such Court on such charge.

A copy of this instrument shall be forwarded with the record of the preliminary enquiry to the Court of Session before which the accused person is to be tried, and a copy shall also be sent to the public prosecutor or to the officer appointed to conduct the prosecution.

178. As soon as the charge on which the accused person is to be tried has been prepared, it shall be read to him, and a copy or translation thereof shall be furnished to him, if he so require.

179. The accused person shall be required at once to give in, orally or in writing, a list of witnesses whom he may wish to be summoned to give evidence on his trial before the Court of Session or High Court.

It shall be in the discretion of the Magistrate to allow the accused person to give in any further list of witnesses at a subsequent time.

180. When a commitment is made to the Court of Session, the record of the Magistrate shall be forwarded to such Court, together with any weapon or other article of property connected with the case.

When a commitment is made to the High Court, such record and such weapon or other article shall be forwarded to the Clerk of the Crown, and if any part of such record is not in English, a translation thereof in English shall be forwarded therewith.

181. When the preliminary enquiry is concluded, the accused person shall, if he demands them at a reasonable time before the trial, be furnished with copies of the depositions. Such copies shall be made at his expense.

182. When the accused person is committed to take his trial before the Court of Session, the Magistrate shall issue an order to the Government Pleader or other officer appointed by the Government to conduct prosecutions before the Court of Session, notifying such commitment, and stating the offence in the same form as the charge.

Nothing in this section shall preclude the Magistrate, if he thinks fit, from appointing a person other than such Government Pleader or officer to conduct the prosecution.

CHAPTER IV.—*Inquiry by Subordinate Magistrates.*

183. Criminal cases brought before the Magistrate of the District or a Subordinate District Magistrate in charge of a division of a District, either on complaint preferred directly to such Magistrate or on the report of a Police officer, may be referred by such Magistrate to any Magistrate subordinate to him.

The reference shall be for enquiry or for trial, if the offence be triable by such Subordinate Magistrate,

or with a view to commitment to the Court of Session if such Magistrate is competent to commit to the Court of Session,

or with a view to commitment to the High Court if such Subordinate Magistrate is competent to commit to the High Court:

Provided that nothing in this section shall prevent any Subordinate Magistrate from entertaining, either on complaint preferred directly to such Magistrate or on the report of a Police officer (in cases in which the Subordinate Magistrate is authorized to receive such report), any case that such Magistrate is, by any law for the time being in force, competent to entertain.

184. When a criminal case is referred under this chapter to a Subordinate Magistrate, the order of reference, if the case has been brought forward on the report of a Police officer, shall be recorded on such report, and all processes issued for causing the attendance of the accused person or the witnesses, shall direct them to attend before such Court.

185. In the enquiry into or trial of cases under this chapter, the Subordinate Magistrates shall be guided by the rules herein prescribed for the guidance of the Magistrate of the District in similar cases;

Police officers and others shall be bound to obey all orders and processes issued in such cases, in like manner as if such orders or processes had been issued by the Magistrate of the District.

186. If, in the course of a trial before a Subordinate Magistrate, the evidence appears to him to warrant a presumption that the accused person has been guilty of an offence which such Magistrate is not competent to try, or for which he is not competent to commit the accused person for trial,

he shall stay proceedings and submit the case to the Magistrate to whom he is subordinate, or to such other Magistrate having jurisdiction as the Magistrate of the District directs.

The Magistrate to whom the case is submitted shall either try the case himself or refer it to any officer subordinate to him having jurisdiction, or he may commit the accused person for trial.

In any such case, such Magistrate or other officer as aforesaid shall examine the parties and witnesses, and shall proceed in all respects as if no proceedings had been held in any other Court.

But any statement or confession duly made by an accused person in the course of the trial before the Subordinate Magistrate shall be admissible as evidence.

187. Whenever a Subordinate Magistrate having jurisdiction finds the accused person guilty, and considers that he ought to receive a more severe punishment than the Subordinate Magistrate is competent to adjudge, the Subordinate Magistrate may record the finding and submit his proceedings to the Magistrate to whom he is subordinate.

Such Magistrate, if he thinks fit, may examine the parties and recall and examine any witness who has already given evidence in the case, and he may call for or take any further evidence, and shall pass such sentence or order in the case as he deems proper, and as is according to law.

Or the Subordinate Magistrate may, if he is empowered to hold the preliminary enquiry into cases triable by the Court of Session and to commit persons to take their trial before such Court, commit the accused person for trial before the Court of Session instead of finding him guilty.

CHAPTER V.—Trial by Court of Session.

188. Except in the cases referred to in section 421, no Court of Session shall take cognizance of any offence as a Court of original criminal jurisdiction except upon a charge preferred by a Magistrate or other officer specially empowered under this Act or under any other law to make commitments to such Court.

189. When the Court is ready to commence the trial, the accused person shall be brought before it, and the charge shall be read and explained to him, and he shall be asked whether he is guilty of the offence charged, or claims to be tried.

If the accused person pleads guilty, the plea shall be recorded, and he may be convicted thereon.

190. If the accused person refuses to plead, or claims to be tried, the Court shall proceed to choose jurors or select assessors as herein-after directed, and to try the case.

191. In every trial before a Court of Session, the prosecution shall be conducted by the Government Pleader or by some other officer specially empowered in that behalf, and the complainant, if there be a complainant, shall be examined as a witness in the case.

192. The examination of the accused person before the Magistrate shall be given in evidence at the trial.

The attestation of the Magistrate shall be sufficient *prima facie* proof of such examination, and such attestation shall be admitted without proof of the signature to it, unless the Court sees reason to doubt its genuineness.

193. When the case for the prosecution has been brought to a close, the Court may, if it considers that there are no grounds for proceeding with the trial, record a judgment of acquittal; otherwise the accused person shall be called upon to enter upon his defence, and to produce his evidence.

At the close of the evidence, if any is produced on behalf of the accused person, and if not, at the close of the case for the prosecution, the Court may examine the accused person as hereinafter provided, after which he or his Counsel or agent may address the Court on the subject of such examination.

194. The accused person or his Counsel or agent may, at his option, address the Court at the close of the case for the prosecution, or at the close of any evidence that may be adduced on his behalf.

195. If any evidence is adduced on behalf of the accused person, or if he answers any question put to him by the Court, the prosecutor, or the Counsel or agent for the prosecution, shall be entitled to reply.

196. If the accused person is acquitted, the Court shall record a judgment of acquittal.

If the accused person is convicted, the Court shall proceed to pass sentence upon him according to law.

197. The Court may, in its discretion, from time to time adjourn the trial.

198. A Court of Session may direct the postponement of a trial, when it is satisfied that such postponement is proper and will promote the ends of justice.

CHAPTER VI.—*Duties of Assessors and Jurors in trials by Court of Session.*

199. In all trials before the Court of Session, there shall be either assessors or jurors, of whom lists shall be formed, and who shall be summoned to attend the sittings of the Court of Session, in the manner hereinafter provided.

200. In a trial before the Court of Session, not by jury, the trial shall be conducted with the aid of two or more assessors as members of the Court, who shall be selected by the Judge from the persons summoned to act as assessors.

201. The opinion of each assessor shall be given orally and shall be recorded in writing by the Court, but the decision is vested exclusively in the Judge.

202. If, in the course of a trial with the aid of assessors, at any time prior to the finding, any assessor is, from any sufficient cause, prevented from attending through the trial, the trial shall proceed with the aid of the other assessor or assessors.

If all the assessors are prevented from attending through the trial, the proceedings shall be stayed, and a new trial shall be held with the aid of fresh assessors.

203. The Local Government may order that the trial of all offences or of any particular class of offences before any Court of Session shall be by jury in any District, and such Local Government may from time to time revoke or alter such order.

The Local Government may also, if it see fit, direct that, in any District or in any class of offences, the jurors shall, before the trial, be sworn in such form as the Government may prescribe.

Orders passed under this section shall be published in the official Gazette, and in such other manner as the Local Government from time to time directs.

204. In trials by jury before the Court of Session, the jury shall consist of five persons, or of such number, being an uneven number, and not being less than three nor more than nine, as the Local Government, by any general order applicable to any particular District or to any particular classes of offences in that District, directs.

205. Whenever a trial by jury is to be held, the persons who are to constitute the jury shall be chosen by lot immediately before the commencement of the trial from the jurors who attend in obedience to the summons.

206. Before the commencement of a trial by jury the names of the jurors shall be called aloud, and, upon the appearance of each juror, the accused person shall be asked if he objects to be tried by such juror.

Objection may then be made to such juror by the accused person or by the Government Pleader or other person appointed to conduct the prosecution, and the grounds of objection shall be stated.

Any objection made to a juror shall be decided by the Court, and the decision of the Court shall be final.

If an objection be allowed, the place of such juror shall be supplied by any other juror attending in obedience to a summons, or, if there be no such juror present, then by any other person present in the Court whose name is on the list of jurors, or whom the Court considers a proper person to serve on the jury, provided no objection to such juror or other person be made and allowed.

207. Any objection taken to a juror on any of the following grounds, if made out to the satisfaction of the Court, shall be allowed :—

(1.) any ground of disqualification within section 357;

(2.) standing in the relation of husband, master or servant, landlord or tenant, to the person alleged to be injured or attempted to be injured by the offence charged, or to the person on whose complaint the prosecution was instituted, or to the person accused;

(3.) being in the employment on wages of either of such persons;

(4.) being plaintiff or defendant against either of such persons in any civil suit,

(5.) having complained against, or having been accused by, either of such persons in any criminal prosecution,

(6.) any circumstance which, in the judgment of the Court, is likely to cause prejudice against, or favour to, either of such persons.

208. The Judge shall not allow any person to serve on the jury, unless the language in which such person understands the language in which the evidence is given or interpreted.

209. The jury shall appoint one of their Foreman of jury. number to be foreman.

It shall be the duty of the foreman to preside in the debates of the jury, to deliver the verdict of the jury, or to ask any information from the Court that may be required by the jury.

If a majority do not agree in the appointment of a foreman, he shall be named by the Court.

Each juror shall, before the trial, make oath to the following effect :—
Jurors to be sworn. "I, A. B., do swear [or solemnly affirm] that I will truly judge in the case of the prisoner [or prisoners] at the bar and give my verdict according to the evidence."

210. The same jury, if not objected to, may try, or the same assessors may aid in the trial of, as many accused persons successively as to the Court seems meet.

211. Whenever, in the opinion of the Court, it is proper and convenient that the jury or assessors should view the place in which the offence charged is said to have been committed, or any other place in which any other transaction material to the enquiry in the trial took place, an order shall be made to that effect, and the jury or assessors shall be conducted in a body, under the care of an officer of the Court, to the place which

shall be shown to them by a person appointed by the Court.

Such officer shall not suffer any other person to speak to, or hold any communication with, any of the jury or assessors, and they shall, when the view is finished, be immediately conducted back into Court.

212. If, in the course of a trial by jury at any time prior to the finding, any juror, from any sufficient cause, is prevented from attending through the trial,

Procedure when juror becomes unable to attend.

or if any juror absents himself, and it is not possible to enforce his attendance,

a new juror shall be added, or the jury shall be discharged, and a new jury empanelled, and in either case the trial shall commence anew.

213. In a trial by jury, the Judge shall sum up the evidence on both sides.

Summing up evidence.

The jury shall then deliver their finding upon the charge.

A statement of the Judge's direction to the jury shall form part of the record.

In trials not by jury, the ground of the Judge's decision shall be recorded.

214. At the close of the trial, and after the Judge has summed up the evidence as hereinbefore provided, the jury may retire to consider their finding, and it shall be the duty of an officer of the Court not to suffer any person to speak to, or hold any communication with, any member of such jury.

Retirement of jury to consider finding.

215. In any case in which a jury is prepared to deliver their finding, the Judge shall ask the jury whether they are unanimous, and if they are unanimous, their verdict shall be accepted and the accused person shall be acquitted or convicted accordingly.

Procedure where jury are unanimous.

216. If the jury are not unanimous, the Judge may require them to retire for further consideration. After such a period as the Judge considers reasonable, the jury may deliver their verdict although they are not unanimous.

217. If a majority of not less than two-thirds agree to convict the prisoner, and if the Judge agrees in their verdict, the prisoner shall be convicted. In any other case he shall be acquitted.

Conviction.

Acquittal.

218. If a trial is adjourned, the jury or assessors shall be required to attend at the adjourned sitting, and at every subsequent sitting, until the conclusion of the trial.

Jury or assessors to attend at adjourned sitting.

219. Criminal trials before the Court of Session in which a European (not Europeans or Americans being a British subject) or an American is the accused person, or one of the accused persons, shall be by jury.

In such case the jury, if such European or American desire it, shall consist of at least one-half of Europeans (whether British subjects or not) or Americans, if such a jury can be procured :

Provided that, in any District in which the Election to be tried Local Government has not without jury. ordered that all trials or trial

for all offences of the class within which the trial about to take place falls, shall be by jury, such European or American may elect to be tried without jury.

220. When a trial is held in which the accused person or one of the accused persons is entitled to be tried by a jury constituted under the provisions of section 219, the Court of Session shall, three days at least before the day fixed for holding such trial, cause to be summoned in the manner hereinafter prescribed as many European or American jurors as are required for the trial, if there be so many on the jury-list of the District.

The Court shall also at the same time in like manner cause to be summoned the same number of other persons named in the revised list, unless such number of such other persons shall have been summoned for jury trials at that session.

From the whole number of persons returned, the jurors who are to constitute the jury shall be taken by lot in the manner prescribed in section 205 until a jury containing the proper number of Europeans or Americans, or a number approaching thereto as nearly as possible, has been obtained.

If a jury containing the requisite number of Europeans and Americans be not obtained, the accused person may elect to be tried by the Judge with the aid of assessors; otherwise he shall be tried by the jury obtained by the means aforesaid.

221. In a trial by jury before the Court of Session of a person not being a European or an American, at least one-half of the jury, if the accused person desire it, shall consist of persons who are neither Europeans nor Americans.

222. In any case before the Court of Session, in which a European or American is charged jointly with a person of any other race, such other person shall, if he desire it, be tried separately if the European or American claims to be tried by a jury consisting of at least one-half of Europeans and Americans.

Jury when European or American charged jointly with one of another race.

PART IV.

APPEAL, REFERENCE, AND REVISION.

CHAPTER I.—*Appeal.*

223. Any person convicted on a trial held by an officer exercising powers less than those of a Magistrate, may appeal to the Magistrate of the District or other officer exercising the powers of a Magistrate, who has been empowered by the Local Government to hear such appeals.

Appeals from officers exercising powers less than those of a Magistrate.

224. Any person convicted by any Civil, Criminal or Revenue Court under Part VIII of this Act, chapter III, may appeal to the Court to which decrees or orders made in such Court are ordinarily appealable, subject to the rules provided in sections 232, 233, 234, 236, 237, and 238.

Appeals from convictions by Civil Courts.

Petitions of appeal under this section, if presented to any District Court, must be presented within thirty days from the day on which the sentence or order appealed against is passed.

225. Any person convicted and sentenced by any Justice of the Peace exercising jurisdiction under section 47 or under section 387 or 389, may appeal to the Court of Session of the District in which the trial was held.

Cases appealed under this section shall not be afterwards liable to revision by means of a writ of *certiorari*:

Provided that nothing in this section shall take away the power of quashing any conviction by means of a writ of *certiorari* in any case where there has been such an appeal as aforesaid.

226. Any person convicted on a trial held by the Magistrate of the District or other officer exercising the powers of a Magistrate, or required by such Magistrate or other officer under section 443 or section 444 to give security for good behaviour, may appeal to the Court of Session of the District.

227. Any person convicted on a trial held by any officer invested with the power described in section 26, may appeal to the High Court, and no appeal against such conviction shall lie to the Court of Session.

228. Any person convicted on a trial held by a Court of Session may appeal to the High Court.

If the conviction was in a trial held with the aid of assessors, the appeal may be on a matter of fact as well as on a matter of law.

If the conviction was on a trial by jury, the appeal shall be admissible on a matter of law only.

229. There shall be no appeal from a judgment of acquittal.

230. There shall be no appeal in cases in which a Court of Session or the Magistrate of a District or other officer exercising the powers of a Magistrate passes a sentence of imprisonment not exceeding one month, or of a fine not exceeding fifty rupees.

231. Petitions of appeal to any Appellate Court, except the High Court, must be presented within thirty days from the day on which the sentence or order appealed against is passed.

Petitions of appeal to the High Court must be presented within sixty days, calculated as above.

An appeal may be admitted after the time herein provided on sufficient cause shown.

232. Every petition of appeal shall be accompanied by a copy of the sentence or order appealed against.

233. The Appellate Court may reject the appeal if, on a perusal of the petition of appeal and the copy of the sentence or order appealed against, and after hearing the appellant or his Counsel or agent if they appear, the Court considers that there is no sufficient ground for questioning the correctness of the decision or for interfering with the sentence or order appealed against.

Before rejecting the appeal, the Court may call for and peruse any part of the proceedings of the lower Court, but shall not be bound so to do.

234. If the party appealing be in jail in pursuance of the sentence or order appealed against, he shall be at liberty to present his petition of appeal and the copy of the sentence or order appealed against, to the Magistrate or other officer in charge of the jail, who shall thereupon forward the petition to the proper appellate authority.

235. A copy of the final sentence or order passed by any Criminal Court, together with the reasons for passing or making the same, shall be furnished without delay on the application of any party to the case in which such sentence or order was passed.

Such copy shall be made at the expense of the person applying for it, unless he is in confinement under the sentence or order and is desirous of appealing against the same, or unless the Court, for any special reason, sees fit to grant such copy free of expense.

236. The Appellate Court, after perusing the proceedings of the lower Court and after hearing the plaintiff or his Counsel or agent if they appear, may alter or reverse the finding and sentence or order of such Court, but not so as to enhance any punishment that has been awarded.

237. In any case in which an appeal is allowed, the Appellate Court may, pending the appeal, order that the sentence be suspended, and if the appellant be in confinement for an offence which is bailable, may order that he be released on bail; and the High Court may exercise the same authority in cases coming before it as a Court of Revision.

238. In any case in which an appeal has been allowed, the Appellate Court, if it think further enquiry or additional evidence upon any point bearing upon the guilt or innocence of the appellant to be necessary, may direct such enquiry to be made and additional evidence to be taken.

The result of the further enquiry and the additional evidence shall be certified to the Appellate Court, and such Court shall thereupon proceed to dispose of the appeal.

Unless the Appellate Court otherwise directs, the presence of the appellant may be dispensed with when the further enquiry is made or evidence taken.

The provisions of this Act relating to summoning and enforcing the attendance of wit-

nesses and their examination shall, so far as may be, apply to witnesses examined under this section.

Certain findings not reversible on the ground of offence proved being theft.

239. No finding by a Court of the offence of dishonest misappropriation of property under section 403 of the Indian Penal Code,

or of dishonest misappropriation of property possessed by a deceased person at the time of his death under section 404 of the said Code,

or of criminal breach of trust under section 405 of the said Code,

or of criminal breach of trust by a carrier, wharfinger or warehouse-keeper under section 407 of the said Code,

or of criminal breach of trust as a clerk or servant under section 408 of the said Code,

shall be reversed or altered by any Court, whether on appeal or revision, on the ground that the offence proved by the evidence was

the offence of theft under section 378 of the said Code,

or the offence of theft in a building, tent, or vessel under section 380 of the said Code,

or the offence of theft as a clerk or servant of property in the possession of his master under section 381 of the said Code.

Finding of theft not reversible on the ground of offence proved being dishonest misappropriation.

240. No finding by a Court of the offence of theft under the said section 378 of the Indian Penal Code,

or of theft in a building, tent, or vessel, under the said section 380,

or of theft as a clerk or servant of property in the possession of his master under the said section 381,

shall be liable to be reversed or altered by any Court, whether on appeal or revision, on the ground that the offence proved by the evidence was one of the following:—

dishonest misappropriation of property under the said section 403,

dishonest misappropriation of property possessed by a deceased person at the time of his death under the said section 404,

such dishonest misappropriation under the said section, the offender being at the time of the person's decease employed by him as a clerk or servant,

criminal breach of trust under the said section 405,

criminal breach of trust as a carrier, wharfinger or warehouse-keeper under the said section 407,

criminal breach of trust as a clerk or servant under the said section 408:

241. Provided that nothing in sections 239 and 240 shall preclude the Appellate Court, in any case mentioned therein, from reducing the punishment awarded by a lower Court in such case within the limits prescribed for the offence which the Appellate Court considers to have been proved by the evidence against the accused person.

Having of power of Appellate Court to reduce punishment.

242. No finding or sentence passed by a Court of competent jurisdiction shall be reversed or altered on appeal or revision on account of any error or defect, either in the charge or in the proceedings on trial, unless

Finding or sentence when reversible by reason of error or defect in charge or proceedings.

the accused person has been sentenced to a larger amount of punishment than could be awarded for the offence of which, in the judgment of the Appellate Court, he ought upon the evidence to have been found guilty,

or unless, in the judgment of the Appellate Court, he has been prejudiced by such error or defect.

In case the accused person has been sentenced to a larger amount of punishment than could have been awarded for the offence

which, in the judgment of the Appellate Court, is proved by the evidence, the Appellate Court may reduce the punishment within the limits prescribed by the Indian Penal Code or any law for the time being in force for such offence.

243. When any Court has convicted a person of an offence not triable by such Court, the Appellate Court may annul the conviction and sentence of such Court, and direct the trial of the case by a Court of competent jurisdiction.

Procedure in case of conviction by Court not having jurisdiction.

244. Except as provided in section 260, sentences and orders passed by an Appellate Court upon appeal shall be final.

Finality of orders on appeal.

Unless otherwise provided, no appeal to lie from order or sentence of Criminal Court.

245. Unless otherwise provided by this Act or by any other law for the time being in force, no appeal shall lie from any order or sentence of a Criminal Court.

CHAPTER II.—Reference.

246. If the Court of Session pass sentence of death, the sentence shall not be executed without the confirmation of the High Court.

If the accused person is convicted of an offence which by the Indian Penal Code is punishable with death, and the Court sentences him to any punishment other than death, the Court shall, in the statement of trials to be periodically submitted to the High Court as hereinafter required, under the head of "Sentences passed upon the accused persons," state the grounds upon which it remitted the punishment of death.

247. A case referred to a High Court by a Court of Session for confirmation of a sentence of death shall be heard by a Court constituted by two or more Judges of such High Court.

Constitution of Court for hearing case referred for confirmation of sentence.

248. In any case so referred, the High Court may either confirm the sentence or pass any other sentence warranted by law, or may annul the conviction and order a new trial on the same or an amended charge.

Power of High Court to confirm sentence or annul conviction.

If the case has been tried by the Court of Session with the aid of assessors, it shall further be competent to the High Court to acquit the accused person and order his discharge.

249. If the case so referred has been tried by the Court of Session with the aid of assessors, the High Court, if it think further enquiry or additional evidence upon any point bearing upon the guilt or innocence of the accused person to be necessary, may direct such enquiry to be made, or such additional evidence to be taken.

The result of the further enquiry and the additional evidence shall be certified to the High Court, and the High Court shall thereupon proceed to pass judgment of acquittal, or such sentence as it thinks fit.

250. In every case so referred to the High Court, the confirmation of the sentence, or any new sentence or order passed by the High Court, shall be signed by at least two Judges of the Court.

251. When the High Court of reference, revision or appeal, in any part of the territories to which this Code has been extended as aforesaid, consists of a single Judge, he shall have all the powers conferred upon two or more Judges of the High Court by this chapter.

CHAPTER III.—Revision.

252. The High Court may make and issue general rules for regulating the practice and proceedings of that Court and of all Criminal Courts subordinate to it,

for keeping all books, entries and accounts to be kept in such Courts, and

for the preparation and transmission of any calendars or statements to be prepared and submitted by such Courts,

and may also frame forms (when not prescribed by this Act) for every proceeding in the said Courts for which it thinks that a form should be provided, and from time to time may alter any such rule or form :

Provided that such rules and forms be not inconsistent with the provisions of this Act, or of any other law in force.

Any rules framed by the Court under this section shall be published in the official Gazette.

253. The High Court may frame rules consistent with this Act for the conduct of business transacted by any two or more Magistrates sitting together, and may from time to time repeal, alter and add to such rules.

All such rules, and all repeals and alterations thereof, and additions thereto, shall be published in the local Gazette.

254. The Court of Session shall send to the High Court such periodical statements or calendars of trials held by such Court as the High Court prescribes, exhibiting the offences charged, the offences of which the accused persons

are convicted, and the sentences or orders passed upon them.

255. A Court of Session and a Magistrate may at all times call for and examine the record of any Court immediately subordinate to such Court or Magistrate, for the purpose of satisfying itself or himself as to the legality of any sentence or order passed, and as to the regularity of the proceedings of such subordinate Court.

If the Court of Session or Magistrate is of opinion that the sentence or order is contrary to law, the Court or Magistrate shall refer the proceedings for the orders of the High Court.

No Court other than the High Court shall alter any sentence or order of any subordinate Court except upon appeal by parties concerned, duly made according to the provisions of Part IV, chapter I of this Act.

256. In the case of offences specified in the seventh column of the second schedule hereto annexed, as triable by the Court of Session only or by the Court of Session or Magistrate of the District, the Court of Session may order the commitment of any accused person who may have been discharged by any Magistrate.

In the case of such offences, the Court of Session may order an enquiry into any complaint which any Magistrate may have dismissed without enquiry.

In the case of such offences the Magistrate of the District shall have like powers where the Magistrate who has discharged the accused person or dismissed the complaint without enquiry is a Subordinate Magistrate.

If the Court of Session considers that any person convicted by a Magistrate has committed an offence not triable by such Magistrate, it may annul the conviction and sentence, and direct the commitment of the accused person for trial before itself.

257. The High Court, in any case tried by the Court of Session in which upon a review of the abstract statement or calendar of prisoners punished without reference, it appears that the sentence passed is one which cannot lawfully be passed on a person convicted of the offence as stated in the abstract statement or calendar, shall annul the sentence, and shall certify to the Court of Session the sentence which may lawfully be passed for such offence ;

Thereupon the Court of Session shall pass a new sentence according to law, and shall amend the record in accordance therewith.

258. The High Court, in any case tried before a Court of Session in which, upon a review of the abstract statement or calendar of prisoners punished without reference, it appears that there has been error in the decision of the Court of Session on a point of law, or that a point of law should be considered by the High Court, may call for the record, or such portion thereof as it deems necessary, together with a report of the Judge's direction to the jury, if the case have been tried by a jury,

and, upon reviewing the depositions of the witnesses, the direction of the Judge, and the conviction, may determine any point of law arising out of the case, and thereupon pass such order as to the High Court seems right.

259. The High Court may, on the report of a Court of Session or of a Magistrate, or whenever it thinks fit, call for the record of any criminal trial or the record of any judicial proceeding of a Criminal Court, other than a criminal trial, in any Court within its jurisdiction, in which it appears to it that there has been error in the decision on a point of law, or that a point of law should be considered by the High Court, and may determine any point of law arising out of the case, and thereupon pass such order as to the High Court seems right.

260. The High Court may call for and examine the record of any case tried by any Court of Session for the purpose of satisfying itself as to the legality or propriety of any sentence or order passed, and as to the regularity of the proceedings of such Court.

If it appear to the High Court that the sentence passed is too severe, the High Court may pass any mitigated sentence warranted by law.

If the High Court is of opinion that the sentence or order is contrary to law, it shall reverse the sentence or order, and pass such judgment, sentence, or order as to the Court seems right, or, if it deems necessary, may order a new trial.

261. Whenever a case is revised by the High Court under this chapter, it shall certify its decision or order to the Court in which the conviction was had or by which the order was passed; or if the conviction or order was passed by a Magistrate other than the Magistrate of the District, to the Magistrate of the District.

The Court or Magistrate to which the High Court certifies its order shall thereupon make such orders as are conformable to the decision of the High Court, and, if necessary, the record shall be amended in accordance therewith:

Provided that, in any case revised by the High Court under this chapter, the High Court shall not reverse the verdict of the jury, or, except as provided in this chapter, alter or reverse the sentence or order of the Court below.

262. No trial held in any Criminal Court shall be set aside, and no judgment passed by any Criminal Court shall be reversed, either on appeal or otherwise, for any irregularity in the proceedings of the trial, unless such irregularity have occasioned a failure of justice.

PART V.

EXECUTION.

263. In cases referred by the Court of Session for the confirmation of a sentence by the High Court, the proper officer of the

High Court shall without delay, after the order of confirmation or other order has been made by the High Court, send a copy of the order under the seal of the High Court, and attested with his official signature, to the Court of Session.

Such Court shall, if the sentence be confirmed immediately, issue a warrant to the officer in charge of the jail in which the prisoner is confined, to cause the sentence or order to be carried into execution; or, in the case of any other order, shall cause such order to be carried into effect.

264. In cases tried by the Court of Session, the Court shall forward a copy of its finding and sentence to the Magistrate of the District in which the trial was held.

If the accused person is sentenced to imprisonment, the Court shall forthwith forward him, with a warrant for the execution of the sentence, to the officer in charge of the jail of the District in which the trial was held.

The warrant shall state the offence of which the accused person has been convicted and the period during which he is to be imprisoned and the nature of the imprisonment.

In cases tried by any Court inferior to a Court of Session, the Court passing the sentence shall forthwith forward the accused person, with a similar warrant for the execution of the sentence, to the officer in charge of the jail of the District in which the trial was held.

265. Upon the receipt of a warrant under section 263 or 264, the officer in charge of the jail shall cause the sentence to be executed, and shall return the warrant, when the sentence has been fully executed, to the Court from which it issued, with an endorsement under his signature, certifying the manner in which the sentence has been executed.

266. If a prisoner sentenced to punishment is seized with illness or is liable to personal infirmity, such that the execution of the sentence would produce corporal evil of a sort not intended, or is pregnant, the officer whose duty it is to execute the sentence may delay its execution until such illness or infirmity or pregnancy has ceased:

Provided that, if the illness or infirmity appear to be permanent, he shall report the case to the High Court, and such Court may recall the warrant and issue another containing a sentence of such commuted punishment as it thinks fit.

267. Whenever an offender is sentenced to pay a fine, the Court which sentences him may issue a warrant for the levy of the amount by distress and sale of any moveable property belonging to the offender, whether or not the offence be punishable with fine only, and whether or not the sentence direct that, in default of payment of the fine, the offender shall suffer imprisonment.

Such warrant may be executed within the jurisdiction of the Court that issued it, and it shall authorize the distress and sale of any moveable property belonging to the offender without the jurisdiction of the said Court when endorsed by the Magistrate of the District in which such property is situated.

268. Whenever a Criminal Court imposes a fine, the Court may order the whole or any part of the fine to be paid in compensation.

(1.) for expenses properly incurred in the prosecution,

(2.) for the offence complained of, where such offence can, in the opinion of the Court, be compensated by money.

Such payment shall be made, as the Court thinks fit, to or for the benefit of the complainant, or the person injured, or both.

If the fine be awarded by a Court whose decision is subject to revision, the amount awarded shall not be paid until a period of two months has elapsed from the date of the award.

269. In every case punishable with imprisonment as well as fine, in fault of payment of fine, which the offender is sentenced to a fine, whether with or without imprisonment, the Criminal Courts shall be guided by the provisions of sections 64 and 65 of the Indian Penal Code in awarding the period of imprisonment in default of payment of the fine :

Provided that, in no such case decided by a Magistrate, shall the period of imprisonment awarded in default of payment of the fine exceed one-fourth of the period of imprisonment which he is competent to inflict as punishment for the offence otherwise than as imprisonment in default of payment of the fine.

270. When the punishment of whipping is awarded in addition to imprisonment, by a Court whose sentence is open to revision by a superior Court, the whipping shall not be inflicted until fifteen days from the date of such sentence, or if an appeal be made within that time, until the sentence is confirmed by the superior Court: but the whipping shall be inflicted immediately on the expiry of the fifteen days, or in case of an appeal immediately on the receipt of the order of the Court confirming the sentence if such order is not received within the fifteen days.

271. In the case of an adult, the punishment of whipping shall be inflicted with such instrument in such mode and on such part of the person as the Local Government directs, and in the case of a juvenile offender, it shall be inflicted in the way of school discipline with a light rattan.

In no case, if the cat-of-nine-tails be the instrument employed, shall the punishment of whipping exceed one hundred and fifty lashes, or, if the rattan be employed, shall the punishment exceed thirty stripes.

The punishment shall be inflicted in the presence of a Justice of the Peace, or of an officer authorized to exercise any of the powers of a Magistrate, and also, unless the Court which passed the sentence otherwise orders, in the presence of a Medical Officer.

272. No sentence of whipping shall be carried into execution unless a Medical Officer, if present, certifies, or unless it appears to the Justice of the Peace

or other officer present, that the offender is in a fit state of health to undergo the punishment.

If during the execution of a sentence of whipping, a Medical Officer certifies, or it appears to the officer present, that the offender is not in a fit state of health to undergo the remainder of the punishment, execution shall be finally stopped.

No sentence of whipping shall be executed by instalments.

273. In any case in which, under section 272, no part of a sentence of whipping is carried into execution, the offender shall be kept in custody till the Court which passed the sentence can revise it, and the said Court may, at its discretion, either order his discharge, or sentence him in lieu of whipping to imprisonment for any period, which may be in addition to any other punishment to which he may have been sentenced for the same offence;

provided that the whole period of imprisonment shall not exceed that to which the offender is liable under the provisions of the Indian Penal Code, or that which the said Court is competent to award.

274. When a person is convicted at one time of two or more offences punishable under the same or different sections of the Indian Penal Code, the Court may sentence him for the offences of which he has been convicted to the several penalties prescribed by the said Code which such Court is competent to inflict; such penalties, when consisting of imprisonment, to commence the one after the expiration of the other.

It shall not be necessary for the Court, by reason only of the aggregate punishment for the several offences being in excess of the punishment which it is competent to inflict on conviction of a single offence, to send the offender for trial before a higher Court;

Provided that in no case shall the person be sentenced to imprisonment for a longer period than fourteen years:

Provided also that, if the case be tried by a Magistrate, the punishment shall not in the aggregate exceed twice the extent of punishment which he is by his ordinary jurisdiction competent to inflict.

275. When sentence is passed on an escaped convict for such escape or for any other offence, the Court may direct the sentence to take effect immediately, or after such convict has suffered imprisonment or transportation, as the case may be, for a further period equal to that which remained unexpired of his former sentence at the time of his escape.

276. When sentence is passed on a person already under sentence of imprisonment or transportation for another offence, the Court, if the sentence be for imprisonment, shall direct the such imprisonment shall commence at the expiration of the imprisonment or transportation to which such person has been previously sentenced,

or, if he is undergoing a sentence of imprisonment, and the sentence, on such subsequent con-

viction, be for transportation, the Court may direct that the sentence shall commence immediately, or at the expiration of the imprisonment to which such person has been previously sentenced :

Provided that nothing in this section shall be held to excuse such person from any part of the punishment to which he is liable upon such former or subsequent conviction.

277. When any person is sentenced to imprisonment, the Local Government may order removal of a prisoner from one jail to another. Jails, may order his removal during the period prescribed for his imprisonment from the jail or place in which he is confined to any other jail or place of imprisonment within the jurisdiction of the same Local Government.

278. When any person under the age of sixteen years is sentenced by any Magistrate or Court of Session to imprisonment for any offence, such Magistrate or Court may direct that such offender, instead of being imprisoned in the criminal jail, shall be confined in any reformatory recognised by the Local Government as a fit place for confinement, in which there are means of suitable discipline and of training in some branch of useful industry, and which is kept by a person willing to obey such rules as the Government prescribes with regard to the discipline and training of persons confined therein.

All persons confined under this section shall be subject to the rules so prescribed by Government.

279. The Governor General of India in Council may from time to time appoint a place or places within British India to which persons sentenced to transportation shall be sent: the Local Government, or some officer duly authorized by such Government, shall give orders for the removal of such persons to the place or places so appointed; and no sentence of transportation shall specify the place to which the person sentenced is to be transported.

280. When sentence of transportation is passed on a person already undergoing transportation under a sentence previously passed for another offence, it shall not be necessary for the Local Government to order his removal from the place in which he is so undergoing transportation.

281. When any person is sentenced to death, the sentence shall direct that he be hanged by the neck till he is dead.

282. When any person has been sentenced to punishment for an offence, the Governor General of India in Council, or the Local Government, may, at any time, without conditions, or upon any conditions which the person sentenced accepts, remit the whole or any part of the punishment to which he has been sentenced.

The Governor General in Council, or the Local Government, may also, without the consent of the person sentenced, commute any one of the following sentences for any other mentioned after it, death, transportation, penal servitude, imprisonment.

PART VI. EVIDENCE.

CHAPTER I.—General Rules of Evidence.

283. The rules contained in this chapter shall be applicable to all trials and enquiries before Criminal Courts.

284. The Court shall receive as *prima facie* evidence the examination of a Civil Surgeon or other medical witness taken and duly attested by the Magistrate.

Provided that the Court may summon such Civil Surgeon or other medical witness, if it see sufficient cause for doing so.

285. The examination of a witness taken and attested by the Magistrate in the presence of the accused person may be given in evidence, if the witness be dead, or the Court be satisfied that for any sufficient cause his attendance cannot be procured.

286. Any document purporting to be a report from the Chemical Examiner to Government upon any matter or thing duly submitted to him for examination or analysis and report in the course of any criminal trial or in any preliminary enquiry relating thereto, shall, if it bears his signature, be received in evidence at a trial by the Court of Session.

No proof of such signature or that the person signing holds such office, shall be requisite, unless the Court sees reason to doubt the genuineness of the document.

287. The declaration of a deceased person, whether it be reduced to writing or not, and whether it be made in the presence of the accused person or not, may be given in evidence if the deceased person at the time of making such declaration believed himself to be in danger of approaching death, although he entertained at the time of making it hopes of recovery.

CHAPTER II.—Evidence how taken.

288. In all Criminal Courts, complainants and witnesses shall be examined upon oath or affirmation, or otherwise according to the provisions of the law for the time being in force in relation to the examination of witnesses.

289. In inquiries and trials under this Act the evidence of the witnesses shall be recorded by the Magistrate or Judge, as the case may be, in the following manner.

290. In cases tried before Magistrates in which a summons usually issues, the Magistrate shall make a memorandum of the substance of the evidence of each witness, as the examination of the witness proceeds.

Memorandum of substance of evidence.

The memorandum shall be written and signed by the Magistrate with his own hand, and shall form part of the record.

If the Magistrate is prevented from making a memorandum as above required, he shall record the reason of his inability to do so, and shall cause such memorandum to be made in writing from his dictation in open Court, and shall sign the same, and such memorandum shall form part of the record.

291. In all other cases whether before Magistrates or Courts of Session, the evidence of each witness shall be taken down in writing in the language in ordinary use in the District in which the Court is held, by or in the presence and hearing and under the personal direction and superintendence of the Magistrate, and shall be signed by the Magistrate.

Mode and language in which evidence to be recorded.

When the evidence of a witness is given in English, the Magistrate may take it down in that language with his own hand, and an authenticated translation of the same, in the language in ordinary use in the District in which the Court is held, shall form part of the record.

Evidence in English.

In cases in which the evidence is not taken down in writing by the Magistrate, he shall, as the examination of each witness proceeds, make a memorandum of the substance of what such witness deposes, and such memorandum shall be written and signed by the Magistrate with his own hand, and shall be annexed to the record.

If the Magistrate is prevented from making a memorandum as above required, he shall record the reason of his inability to do so.

292. The Local Government may direct that in any District or part of a District the evidence of complainants or witnesses shall be taken down by the Magistrate with his own hand in the vernacular language of the Magistrate, unless the Magistrate be prevented by any sufficient reason from taking down the evidence of any complainant or witness, in which case he shall record the reason of his inability to do so, and shall cause the evidence to be taken down in writing from his dictation in open Court.

Local Government may direct evidence to be recorded in vernacular language of Magistrate.

The evidence so taken down shall be signed by the Magistrate, and shall form part of the record:

Provided that, if the vernacular language of the Magistrate be not English or the language in ordinary use in the District in which the Court is held, the Local Government may direct him to take down the evidence in the English language or in

Proviso.

the language in ordinary use in the District in which the Court is held, instead of his own vernacular.

293. In cases tried before Magistrates in which a summons usually issues, the Magistrate may, if he thinks fit, take down the evidence of any witness in the manner provided in section 291, or if within the jurisdiction of such Magistrate, the Local Government has made the order referred to in section 292, in the manner provided in section 292.

Taking down evidence in cases tried upon summons.

294. The Local Government may determine what, for the purposes of this Act, shall be held to be the language in ordinary use in any District in which a Court is held.

Local Government to decide language in ordinary use.

295. The evidence shall not ordinarily be taken down in the form of question and answer; but in the form of a narrative.

Evidence how to be recorded.

It shall be in the discretion of the Magistrate to take down, or cause to be taken down, any particular question and answer, if there appear any special reason for so doing, or any person who is a prosecutor or a person accused, or his Counsel or agent, requires it.

When the evidence is completed, it shall be read over to the witness in the presence of the accused person if in attendance, or of his agent when his personal attendance is dispensed with and he appears by agent, and shall, if necessary, be corrected.

Evidence to be read to witness.

If the witness deny the correctness of any part of the evidence when the same is read over to him, the Magistrate may, instead of correcting the evidence, make a memorandum thereof of the objection made to it by the witness, and shall add such remarks as he thinks necessary.

If the evidence be taken down in a different language from that in which it has been given, and the witness does not understand the language in which it is taken down, the witness may require his evidence as taken down to be interpreted to him in the language in which it was given, or in a language which he understands.

296. A memorandum to be signed by the Magistrate shall be attached to the evidence of every witness, whether for the prosecution or the defence, and shall state that the evidence was read over to the witness in a language which he understood (naming the language), and, if the fact is so, that the witness acknowledged such evidence to be correct.

Memorandum to be attached to evidence.

When the evidence is not taken down by the Magistrate with his own hand, the memorandum shall further state that the evidence was taken down in his presence and hearing, and under his personal direction and superintendence.

297. If the evidence is given in a language not understood by the accused person, it shall be interpreted to him in open Court in a language understood by him, in all cases where he is present in person.

Interpretation of evidence to accused or his agent.

If he appears by agent, and the evidence is given in a language other than the language in ordinary use in the District in which the Court is held, it shall be interpreted to such agent in that language.

298. Every Judge or Magistrate recording the evidence of a witness shall record such remarks as he thinks material respecting the demeanour of such witness whilst under examination.

Remarks respecting demeanour of witness.

299. Sections 296, 297 and 298 shall not apply to evidence taken by a Magistrate in cases in which a summons usually issues, unless he thinks fit to act under section 298.

Sections 296, 297 and 298 not to apply in certain cases.

CHAPTER III.—Of the Examination of Persons accused.

300. In inquiries and trials before Magistrates, the Magistrate may, from time to time and at any stage of the proceedings,

Accused may be questioned.

and in trials before the Court of Session, the Court at the close of the case for the prosecution and at the close of the evidence (if any) on behalf of the accused person,

may put any questions to the accused person which the Magistrate or Court may think proper.

It shall be in the option of the accused person to answer such questions.

301. No influence, by means of any promise or threat or otherwise, shall be used to the accused person to induce him to disclose or withhold any matter within his knowledge.

No influence to be used to induce disclosures.

302. No oath or affirmation shall be administered to the accused person.

Accused not to be sworn.

303. In inquiries and trials before Magistrates, the examination of the accused person, including every question put to him and every answer given by him, shall be recorded in full, and shall be shown or read to him, and he shall be at liberty to explain or add to his answers.

Examination of accused how recorded.

When the whole is made conformable to what he declares is the truth, the examination shall be attested by the signature of the Magistrate, who shall certify under his own hand that it was taken in his presence and in his hearing, and contains accurately the whole of the statement made by the accused person.

304. The Magistrate of the District or other officer exercising the powers of a Magistrate, and any Subordinate Magistrate duly empowered under section 93, recording his reason for so doing, may tender a pardon to any one or more of the persons supposed to have been directly or indirectly concerned in or privy to any offence specified in column seven of the second schedule hereto annexed as triable by the Court of Session, on condition of his or their making a full, true and fair disclosure of the whole of the circumstances within his or their knowledge relative to the crime committed, and every other person concerned in the perpetration thereof.

Any person accepting a tender of pardon under this section, shall be examined as a witness in the case under the rules applicable to the examination of witnesses.

Magistrate may tender pardon to accomplice.

Such person, if not on bail, may, if the Magistrate or other officer as aforesaid thinks proper, be detained in custody pending the termination of the trial.

305. The High Court as a Court of reference, in cases tried with the aid of assessors, and the Court of Session, after committal but before the commencement of a trial, may, with the view of obtaining on the trial the evidence of any person or persons supposed to have been directly or indirectly concerned in or privy to any such offence, instruct the Magistrate to tender a pardon on the same condition to such person or persons.

High Court or Court of Session may direct tender of pardon.

The Court of Session in like manner and on the same condition may, at any time during a trial, with the view of obtaining on the trial the evidence of any person or persons supposed to have been directly or indirectly concerned in or privy to any such offence, tender a pardon to such person or persons.

306. When a pardon has been tendered under section 304 or section 305, if it appears to the Magistrate before the committal, or to the Court of Session at the time of trial, or to the High Court as a Court of reference, that any person who has accepted an offer of pardon has not conformed to the conditions under which the pardon was tendered, either by wilfully concealing anything essential, or by giving false evidence or information, such Magistrate or Court may commit or direct the commitment of such person for trial for the offence in respect of which the pardon was so tendered.

When High Court or Court of Session may direct commitment of person to whom pardon has been tendered.

CHAPTER IV.—Of securing the Attendance of Witnesses.

307. The following procedure shall be pursued in order to obtain the attendance of witnesses in cases in which a person accused or suspected of crime is brought or appears before a Magistrate.

Procedure for obtaining attendance of witnesses.

308. In cases usually tried before a Magistrate upon summons, the Magistrate may summon any person who appears to him likely to give material evidence on behalf of the complainant or the accused.

In cases tried upon summons.

309. In cases usually tried before a Magistrate upon warrant, the Magistrate shall ascertain from the complainant or otherwise the names of any persons who may be acquainted with the facts and circumstances of the case, and are likely to give evidence for the prosecution, and summon them before him to give evidence.

In cases tried upon warrant.

The Magistrate shall also summon any witness and examine any evidence that may be offered in behalf of the accused person to answer or disprove the evidence against him, and may for that purpose, at his discretion, adjourn the trial from time to time.

310. In inquiries preliminary to commitment to a Court of Session, the Magistrate shall procure the attendance of witnesses for the prosecution as in cases usually tried upon

In inquiries preliminary to commitment to Court of Session.

warrant, and it shall be in his discretion to summon any witness offered in behalf of the accused person to answer or disprove the evidence against him.

311. In such inquiries, when the person accused is to be committed for trial and has given in the list of witnesses mentioned in section 309, the Magistrate shall summon the witnesses to appear before the Court before which the accused person is to be tried.

312. If the Magistrate thinks that any witness is included in the list for the purpose of vexation or delay or of defeating the ends of justice, he may require the accused person to satisfy him that there are reasonable grounds for believing that such witness is material.

If the Magistrate be not so satisfied, he shall not be bound to summon the witness, unless such a sum is deposited with the Magistrate as he thinks necessary to defray the expense of obtaining the attendance of the witness.

313. The accused person shall be allowed to examine any witness not previously named by him if such witness be in attendance, but he shall not be entitled of right to have any witness summoned other than the witnesses named in the list delivered to the Magistrate by whom he was committed or held to bail for trial, except as provided in section 402.

314. Any Court or Magistrate may at any stage of any inquiry or trial summon or examine any witness whose evidence appears essential to the just decision of the case, or examine any person in attendance though not summoned as a witness.

315. If the Magistrate has reason to believe that any witness whose attendance is required will not attend to give evidence without being compelled to do so, he may, instead of issuing a summons, issue his warrant of arrest in the first instance.

316. If the warrant cannot be served, and the Magistrate is satisfied that the witness absconds or conceals himself for the purpose of avoiding the service thereof, he may issue a proclamation, requiring the attendance of such witness to give evidence at a time and place to be named therein, to be affixed on some conspicuous part of his ordinary place of abode.

If the witness does not attend at the time and place named in such proclamation, the Magistrate may order the attachment of any moveable property belonging to such witness to such amount as he deems reasonable, not being in excess of the amount of costs of attachment and of any fine to which the witness may be liable under the provisions of the following section.

Such order shall not authorize the attachment of any property out of the jurisdiction of the Magistrate by whom it is made; but it shall authorize the attachment of property in the jurisdiction of any Magistrate by whom such order is endorsed.

317. If the witness appears and satisfies the Magistrate that he did not abscond or conceal himself for the purpose of avoiding the service of the warrant, and that he had not notice of the proclamation in time to attend at the time and place named therein, the Magistrate shall direct that the property be released from attachment, and shall make such order in regard to the costs of the attachment as he thinks fit.

If such witness does not appear, or appearing, fails to satisfy the Magistrate that he did not abscond or conceal himself for the purpose of avoiding the service of the warrant, and that he had not such notice of the proclamation as aforesaid, the Magistrate may order the property attached, or any part thereof, to be sold for the purpose of satisfying all costs incurred in consequence of such attachment, together with the amount of any fine which he may impose upon such witness under the provisions of section 172 of the Indian Penal Code.

If the witness pays to the Magistrate the costs and fine as aforesaid, the Magistrate shall order the property to be released from attachment.

318. If any person summoned to give evidence neglects or refuses to appear at the time and place appointed by the summons, and no valid excuse is offered for such neglect or refusal, the Magistrate, upon proof of the summons having been duly served, may issue a warrant under his hand and seal, to bring such person before him to testify as aforesaid.

319. If any person summoned or brought before a Magistrate refuses to answer such questions as are put to him, without offering any valid excuse for such refusal, the Magistrate may, by warrant under his hand and seal, commit him to custody for any term not exceeding seven days, unless in the meantime he consents to be examined and to answer, after which, in the event of his persisting in his refusal, he may be dealt with according to the provisions of section 387.

320. If any witness before a Court of Session refuses to answer any question which shall be put to him, and does not offer any just excuse for such refusal, the Court may commit him to custody for such reasonable time as it deems proper, unless in the meantime he consents to be examined and to answer.

In the event of his persisting in his refusal, he may be dealt with according to the provisions of section 387.

321. Prosecutors and witnesses for the prosecution, whose attendance may be necessary before the Court of Session, shall execute before the Magistrate recognizances in the Form (E) given in the appendix, or to the like effect, to be in attendance when called upon at the Court of Session, to prosecute or to give evidence, as the case may be.

If any prosecutor or witness refuses to attend before the Court of Session or to execute

the recognizance above directed, the Magistrate may detain him in custody, until he executes such recognizance, or until the time when his attendance at the Court of Session is required, when the Magistrate shall send him under custody to the Court of Session.

CHAPTER V.—Of Search-Warrants.

322. When a Magistrate considers that the production of anything is essential to the conduct of an enquiry into an offence known or suspected to have been committed, or when he considers that such enquiry will be furthered by the search or inspection of any house or place, he may grant his search-warrant, and the officer charged with the execution of such warrant may search any house or place within such Magistrate's jurisdiction.

The Magistrate may, if he see fit, specify in his warrant the house or place, or part thereof, to which only the search or inspection shall extend, and the officer charged with the execution of such warrant shall then search only the house, place or part so specified.

323. A search-warrant shall ordinarily be directed to a Police officer, but the Magistrate issuing the warrant may, if he see fit, direct it to any other person.

324. A search-warrant directed to an officer in charge of a Police-station may, if he is not able to proceed in person, be executed by any officer subordinate to him.

In such case the name of such subordinate officer shall be endorsed upon the warrant by the officer to whom it is directed.

325. When it is necessary for a search-warrant to be executed out of the jurisdiction of the Magistrate issuing the warrant, the Magistrate within whose jurisdiction the warrant is to be executed shall endorse his name thereon.

Such endorsement shall be sufficient authority for the Police officer charged with the execution of the warrant to execute the same within the same jurisdiction.

Or the search-warrant may be directed to the Magistrate within whose jurisdiction the search is to be made, and he shall thereupon endorse his name on such warrant and enforce its execution in the same manner as if it had been issued by himself.

326. Whenever there is reason to believe that the delay occasioned by obtaining the endorsement of the Magistrate in whose District the warrant is to be executed will prevent the discovery of the thing for which search is to be made, the Police officer charged with the execution of the warrant may execute the same in any place beyond the jurisdiction of the Magistrate by whom it was issued without the endorsement of the Magistrate in whose jurisdiction that place is situate.

If the thing for which search is made is found in such place, it shall be immediately taken before the Magistrate in whose jurisdiction it is found, and, unless there be good cause to the contrary, he shall make an order authorizing it to be taken to the Magistrate who issued the warrant.

327. If the thing searched for be found within the local limits of a High Court, it shall be taken to the Chief Commissioner of Police or to a Police Magistrate, who shall act in the manner prescribed in section 326.

328. Whenever it appears necessary, a Magistrate may, by the warrant, order search to be made in a place out of his jurisdiction, and may direct that the warrant be executed either after or without obtaining the endorsement of the Magistrate within whose jurisdiction the search is to be made.

When a Magistrate issues a warrant under this section, he shall inform the Magistrate within whose jurisdiction the house or place to be searched is situate, or if the house or place be situate within the local limits of any High Court, he shall inform the Chief Commissioner of Police, of the issue of such warrant.

329. A Magistrate issuing a search-warrant to be executed in any house or place out of the jurisdiction of the Magistrate of the District, may direct the warrant to any Magistrate within whose jurisdiction such house or place is situate, and may send the same by post.

On receipt of the warrant by the Magistrate to whom it is directed, he shall endorse his name thereon and enforce its execution in the same manner as if it had been originally issued by himself.

If the warrant is to be executed within the local limits of the High Court, it shall be addressed to the Commissioner of Police or to a Police Magistrate.

In such case any property found on search made may be dealt with as provided in sections 326 and 327.

330. If the Magistrate of the District or a Magistrate in charge of a division of a District, or any other officer exercising the powers of a Magistrate, upon information and after such enquiry as he thinks necessary, has reason to believe that any house or other place is used as a place for the deposit or sale of stolen property, or for the deposit or sale or manufacture of forged documents, or counterfeit Government stamps, or counterfeit coin, or instruments or materials for counterfeiting coin or for forging,

or that any forged documents, or counterfeit stamps, or false seals, or any counterfeit coin, or instruments or materials used for counterfeiting

coin, or for forging, are kept or deposited in any house or other place,

he may by his warrant authorize any Police officer above the rank of a constable to enter, with such assistance as may be required, and by force if necessary, any such house or other place, and to search all such parts of the same as are specified in the warrant, and to seize and take possession of any property, documents, stamps, seals, or coins therein found, which he may reasonably suspect to be stolen, forged, false, or counterfeit, and also of any such instruments and materials as aforesaid.

331. The Magistrate by whom a search-warrant is issued may attend personally for the purpose of seeing that the warrant is duly executed.

The Magistrate may also direct a search to be made in his presence, of any house or place for the search of which he is competent to issue a search-warrant.

332. Whenever an officer in charge of a Police-station considers that the production of anything is necessary to the conduct of an enquiry into any offence which he is authorized to investigate, he may search or cause search to be made for the same, in any house or place within the limits of such station.

In such case, the officer in charge of the Police-station shall, if practicable, conduct the search in person.

If unable to conduct the search in person, and there is no other person competent to make the search present at the time, the officer in charge of the Police-station may require any officer subordinate to him to make the search, and he shall deliver to such officer an order in writing, specifying the property for which search is to be made and the house or place to be searched, and the subordinate officer may thereupon search for such property in such house or place.

The provisions of sections 335 to 338 (both inclusive), relating to search-warrants, shall be applicable to a search under this section made by or under the direction of an officer in charge of a Police-station.

333. An officer in charge of a Police-station may require an officer in charge of another Police-station, whether subordinate to the same Magistrate as himself or to a Magistrate of another District, to cause a search to be made in any house or place in any case in which the former officer might cause such search to be made within the limits of his own station.

334. An officer in charge of a Police-station may, without a warrant, enter any shop or premises within the limits of such station for the purpose of inspecting or searching for any weights or measures or instruments for weighing used or kept therein, whenever he has reason to believe that there are in such shop or premises any weights, measures, or instruments for weighing which are false.

If he finds in such shop or premises any weights, measures, or instruments that are false, he may seize the same, and shall forthwith give information of such seizure to the Magistrate having jurisdiction.

335. If the house or place to be searched is closed, it shall be the duty of any person residing in or being in charge of such house or place, on demand of the officer or other person executing the warrant, to allow such officer or other person free ingress thereto, and to afford all reasonable facilities for a search therein.

336. A Police officer, or other person authorized by a warrant to search any house or place, may break open any outer or inner door or window of the house or place, in order to execute the warrant, if, after notification of his authority and purpose and demand of admittance duly made, he cannot otherwise obtain admittance.

337. If the place ordered to be searched is an apartment in the actual occupancy of a woman who, according to the customs of the country, does not appear in public, the officer or other person charged with the execution of the warrant shall give notice to such woman in such apartment, not being a woman against whom a warrant of arrest has been issued, that she is at liberty to withdraw.

After giving such notice and allowing a reasonable time for the woman to withdraw, and affording her every reasonable facility for withdrawing, he may enter such apartment for the purpose of completing the search, using at the same time every precaution consistent with these provisions for preventing the clandestine removal of property.

338. The search of any house or place under this chapter shall be made in the presence of two or more respectable inhabitants of the place in which the house or place searched is situate, but they shall not be required to attend the Court of the Magistrate as witnesses, unless specially summoned by him.

The occupant of the house or place or some person in his behalf shall, in every instance, be permitted to attend during the search.

339. Whenever it is necessary to cause a woman to be searched, the search shall be conducted with strict regard to the habits and customs of the country.

PART VII.

PROCEDURE INCIDENTAL TO INQUIRY AND TRIAL.

CHAPTER I.—Bail.

340. When any person appears or is brought before a Magistrate accused of any of the offences specified as bailable in column five of the second schedule hereto annexed, he shall be admitted to bail.

341. When any person appears or is brought before a Magistrate accused of any offence entered as not bailable in column five of the second schedule hereto annexed, such person shall not be admitted to bail, if there appear reasonable grounds for believing that he has been guilty of the crime imputed to him.

If the evidence given in support of the accusation is, in the opinion of the Magistrate, not such as to raise a strong presumption of the guilt of the accused person and to require his committal,

or if such evidence is adduced on behalf of the accused person as, in the opinion of the Magistrate, weakens the presumption of his guilt, but there appears to the Magistrate in either of such cases to be sufficient ground for further enquiry into his guilt,

the accused person shall be admitted to bail pending such enquiry.

342. The Court of Session may direct that any accused person shall be admitted to bail, or that the bail required by a Magistrate be reduced.

343. When a Magistrate admits to bail any person accused or suspected of any offence, a recognizance in such sum of money as the Magistrate thinks sufficient, shall be entered into by the person so accused and one or more sureties, conditioned that such person shall attend during the preliminary enquiry, and, if required, shall appear when called upon at the Court of Session to answer the charge.

344. If through mistake or fraud insufficient bail has been taken, or if the sureties become afterwards insufficient, the accused person may be ordered by the Magistrate to find sufficient sureties, and, in default, may be committed to prison.

345. If the accused person cannot find sureties when called upon, he shall be admitted to bail upon finding the same at any time afterwards before conviction.

346. After the recognizances have been duly entered into, the Magistrate, in case the accused person has appeared voluntarily or is in the custody of some officer, shall thereupon discharge him; and in case he is in some prison or other place of confinement, shall issue a warrant of discharge to the jailor or other person having him in his custody, and such jailor or other person shall thereupon liberate him.

347. The sureties for an accused person may, at any time, apply to the Magistrate to be discharged from their engagements.

On such an application being made, the Magistrate shall issue his warrant of arrest, directing that such person be brought before him.

On the appearance of such person pursuant to the warrant, or on his voluntary surrender, the Magistrate shall direct the recognizances of the sureties to be discharged, and shall call upon such person to find other sureties, and, in default, may order him to be committed to prison.

348. Whenever, by reason of default of appearance of the person executing the personal recognizance, the Magistrate is of opinion that proceedings should be had to compel payment of the penalty mentioned in the recognizance, he shall proceed to enforce the penalty by the attachment and sale of the moveable property belonging to such person, which may be found within the jurisdiction of the Magistrate of the District.

349. Whenever, by reason of default of appearance by the person bailed, the Magistrate is of opinion that proceedings should be had to compel payment of the penalty mentioned in the recognizance of the surety or sureties, he shall give notice to the surety or sureties to pay the same, or to show cause why it should not be paid.

If no sufficient cause be shown, the Magistrate shall proceed to recover the penalty from such surety or sureties by the attachment and sale of any moveable property belonging to him, or them which may be found within the jurisdiction of the Magistrate of the District.

If the penalty be not paid and cannot be recovered by such attachment and sale, such surety or sureties shall be liable to confinement, by order of the Magistrate, in the Civil jail, during a period not exceeding six months.

350. The powers given by sections 348 and 349 may be exercised by every Criminal Court in every case in which a personal recognizance or bail has been given for the appearance of a party or witness, if default is made by the non-appearance of such party or witness before such Court according to the conditions of such recognizance or bail:

Provided that the Magistrate or Court may, at his or its discretion, remit any portion of the penalty mentioned in the personal recognizance or in the recognizance of the surety or sureties, and enforce payment in part only:

All orders passed by any Magistrate under this section or section 348 or 349 shall be subject to revision by the Magistrate of the District.

351. When any person is required by any Criminal Court to give bail, instead of bail, such Court may permit such person to deposit a sum of money or Government promissory notes to such amount as it may fix in lieu of such bail.

CHAPTER II.—Formation of Lists of Jurors and Assessors and their Attendance.

352. The Collector of the District or such other officer as the Local Government from time to time appoints in this behalf, shall prepare and make out in alphabetical order a list of persons residing within ten miles from the place where trials before the Court of Session are held, or within such other distance as the Local Government thinks fit to direct, who are in the judgment

of the Collector or other officer as aforesaid qualified from their education and character to serve as jurors or as assessors, respectively.

The list shall contain the name, place of abode, and quality or business of every such person; and if the person is a European or an American, the list shall mention the race to which he belongs.

353. Copies of such list shall be stuck up in

Publication of list.

the office of the Collector or other officer as aforesaid and in the Court-houses of the Magistrate of the District and of the Chief Civil Court, and in some conspicuous place in the town or towns near or in the vicinity of which the persons named in the list reside.

To every such copy shall be subjoined a notice, stating that objections to the list will be heard and determined by the Collector or other officer as aforesaid at a time and place to be mentioned in the notice.

354. The Collector or other officer as aforesaid

Revision of list.

shall, at the time and place mentioned in the notice, revise the list and hear the objections (if any) of persons interested in the amendment thereof, and shall strike out the name of any person not qualified in his judgment to serve as a juror or as an assessor, or who may avail himself of the exemption from service given by section 358, and insert the name of any person omitted from the list whom he deems qualified for such service.

A copy of the revised list shall be signed by the Collector or other officer as aforesaid and sent to the Court of Session.

Any order of the Collector or other officer as aforesaid in preparing and revising the list shall be final.

355. The list so prepared and revised shall be

Annual revision of list.

again revised at least once in every year.

The list so revised shall be deemed a new list and shall be subject to all the rules hereinbefore contained as to the list originally prepared.

356. All male persons between the ages of

Jurors and assessors.

twenty-one and sixty, resident within the local limits of the jurisdiction of the Court of Session, except those hereinafter mentioned, shall be deemed capable of serving as jurors and assessors, and shall be liable to be summoned accordingly.

357. The following persons are incapable of

Disqualifications.

serving as jurors or as assessors in trials before the Court of Session, namely:—

Persons who hold any office in or under the said Court.

Persons executing any duties of Police or entrusted with any Police functions.

Persons who have been convicted of any offence against the State, or of any fraudulent or other offence which, in the judgment of the Collector, renders them unfit to serve on the jury.

Persons afflicted with any infirmity of body or mind, sufficient to incapacitate them from serving.

Persons who, by habit or religious vows, have relinquished all care of worldly affairs.

358. The following persons are exempt from

Exemptions.

the liability to serve as jurors or as assessors, namely:—

Judges and other judicial officers.

Commissioners and Collectors of Revenue or Customs.

All persons engaged in the Preventive Service in the Customs Department.

All persons engaged in the collection of the revenue whom the Collector thinks fit to exempt on the ground of official duty.

Chaplains and others employed in religious offices.

All persons in the Military service.

Surgeons and others who openly and constantly practise in the profession of Physic.

Persons employed in the Post Office and Electric Telegraph Departments.

Persons actually officiating as priests in their respective religions.

Persons exempted by Government from personal appearance in Court under the provisions of the Code of Civil Procedure, section 22.

Person exempted is not bound to avail himself of his right of exemption.

The exemption from service given by this section is a right of which each person exempted may avail himself or not.

Nothing herein contained shall be construed to disqualify any such person, if he is willing to serve as a juror or as an assessor.

359. The Court of Session shall ordinarily,

Court to summon jurors.

three days at the least before the time fixed for the holding of sessions, cause the Magistrate to summon as many persons named in the said revised list as seem to the Court to be needed for trials by jury and trials with the aid of assessors at the said sessions, the number to be summoned not being less than double the number required for any case about to be tried at such sessions.

The names of the persons to be summoned shall be drawn by lot in open Court, excluding those on the revised list who have served within six months, unless the number cannot be made up without them, and shall be specified in the precept to the Magistrate.

360. Every summons to a juror or assessor

Form and service of summons.

shall be in writing, and shall require his attendance as a juror or assessor at a time and place to be therein specified.

The summons or a copy thereof shall be served on every juror or assessor personally.

If the juror or assessor summoned be absent from his usual place of abode, the summons may be left for him there with some adult male member of his family residing with him.

361. The Court of Session may direct jurors or

Power to summon another set of jurors or assessors.

assessors to be summoned at other periods than the period specified in section 359, when the number of trials before the Court renders the attendance of one set of jurors or assessors for a whole session oppressive, or whenever it is found to be necessary.

362. If any person summoned to serve as a

Service of summons on juror or assessor be in the officer of Government. summons shall be sent to him through the head

officer of the office in which he is employed, and the Court may excuse the attendance of such person if it appear, on the representation of such head officer, that the person summoned cannot serve as a juror or assessor without inconvenience to the public service.

Court may excuse attendance of juror or assessor.

363. The Court of Session may excuse any juror or assessor from attendance for reasonable cause.

364. At each session the Court shall cause to be made a list of the names of those who serve as jurors or assessors at such session.

List of jurors or assessors attending.

The list shall be kept with the revised list of the jurors and assessors prepared under section 354.

A reference shall be made in the margin of the said revised list to each of the names which are mentioned in the list prepared under this section.

365. Any person summoned to attend as a juror or as an assessor who, without lawful excuse, fails to attend as required by the summons, or having attended,

Penalty for non-attendance of juror or assessor.

departs without having obtained the permission of the Court, or fails to attend after an adjournment of the Court after being ordered to attend, shall be liable by order of the Court of Session to a fine not exceeding one hundred rupees.

Such fine shall be levied by the Magistrate of the District by attachment and sale of any moveable property belonging to such juror or assessor within the jurisdiction of the Court making the order.

In default of recovery of the fine by such attachment and sale, such juror or assessor may be imprisoned in the civil jail for the space of fifteen days if the fine be not sooner paid.

CHAPTER III.—*Miscellaneous Provisions.*

366. The seizure by any Police officer of property alleged or suspected to have been stolen, or of property seized by any Police officer under circumstances which create suspicion of the committal of any offence, shall be forthwith reported to a Magistrate, who shall thereupon make such order respecting the custody and production of the property as he thinks proper.

If the property is of a perishable nature, or if it appear to the Magistrate that its sale would be for the benefit of the owner, he may at any time direct it to be sold, and shall hold the proceeds in trust for the owner subject to the provisions contained in sections 367 and 368:

Sale of perishable property.

Provided that no Subordinate Magistrate of the Second Class shall exercise this power unless he is generally or specially authorized to do so by the Magistrate of the District.

367. When the owner of any such property is unknown, the Magistrate may detain the same, or the proceeds thereof if sold, and, in case of such detention, shall issue a proclamation specifying the articles of which such property consists or consisted, and requiring any person who may have a claim thereto or to the proceeds

Procedure where owner of property seized unknown.

thereof to appear before him and establish his claim within six months from the date of such proclamation.

368. If no person within such period establishes his claim to such property or proceeds, and if the person in whose possession such property was found is unable to show that it was legally acquired by him, the property shall be at the disposal of the Government, and may be sold under the orders of the Magistrate of the District, or, if it has been already sold by the Magistrate, the proceeds shall be at the disposal of the Government.

Procedure if no claimant appear within six months.

369. When the trial in any Criminal Court is concluded, the Court at the time of passing judgment may make such order as appears right for the disposal of any property produced before it regarding which any offence appears to have been committed.

370. Any Court of appeal, reference or revision may direct any such order passed by a Court subordinate thereto to be stayed, and may modify, alter or annul it.

371. The order passed by any Court under section 369 or 370 may be in the form of a reference of the property to the Magistrate of the District, who shall in such cases deal with it as if the property had been seized by the Police and the seizure had been reported to him in the manner hereinbefore mentioned.

372. Every warrant for the commitment of a person to custody shall be in writing and signed and sealed by the Judge or Magistrate who issues it, and shall be directed to some jailor or other officer or person having authority to receive and keep prisoners, and shall be in the Form (C) given in the appendix to this Act or to the like effect.

Form and direction of warrant of commitment.

373. The warrant of commitment shall be lodged with the jailor, if he be in the jail; and if he be not in the jail, with his deputy.

If the jailor has no deputy, the warrant may be lodged with any officer of the jail then being in the jail.

374. Subject to any rules that may be passed by the Local Government with the previous sanction of the Governor General of India in Council, the Criminal Courts may order payment on the part of Government of the reasonable expenses of any complainant or witness attending for the purpose of any trial before such Court under this Act.

Expenses of complainant and witnesses.

375. When the services of an interpreter are required by any Criminal Court for the interpretation of any evidence or statement, he shall be sworn in the manner provided for witnesses by any law for the time being in force, to interpret truly such evidence or statement, and he shall be bound to state the truth in his interpretation of such evidence or statement.

Interpreter to be sworn.

PART VIII. EXCEPTIONAL INCIDENTS.

CHAPTER I.—*Lunatics.*

376. When any person charged with an offence appears to the Magistrate having jurisdiction to be of unsound mind and incapable, in consequence, of making a defence, the Magistrate shall institute an inquiry to ascertain the fact of such unsoundness of mind, and shall cause the accused person to be examined by the Civil Surgeon of the District, or some other medical officer, and thereupon shall examine such Civil Surgeon or other medical officer, and shall reduce the examination into writing.

If the Magistrate is of opinion that the accused person is of unsound mind, he shall stay further proceedings in the case.

377. When, from the evidence given before a Magistrate, there appears to be sufficient ground for believing that the accused person committed an act which, if he had been of sound mind, would have been an offence triable exclusively by the Court of Session, and that he was at the time when the act was committed, by reason of unsoundness of mind, incapable of knowing the nature of the act charged or that he was doing what was wrong or contrary to law, he shall be sent for trial by the Magistrate before the Court of Session:

If the Magistrate is a Justice of the Peace and the accused person is a European British subject, the Magistrate shall follow the procedure prescribed in the second paragraph of section 176.

378. If any person committed for trial before a Court of Session, shall at his trial appear to the Court to be of unsound mind and incapable of making his defence, the Court shall in the first instance try the fact of such unsoundness of mind, and if satisfied of the fact, shall give a special judgment that the accused person is of unsound mind and incapable of making his defence, and thereupon the trial shall be postponed.

379. Whenever an accused person is found to be of unsound mind and incapable of making his defence, the Magistrate or Court of Session, as the case may be, if the offence be bailable, may release such person on sufficient security being given that he shall be properly taken care of, and shall be prevented from doing injury to himself or to any other person, and for his appearance when required.

If the offence be not bailable, or if the required bail be not given, the accused person shall be kept in safe custody in such place as the Local Government to which the case shall be reported shall direct.

380. Whenever any investigation or trial of a case is postponed under section 376 or section 378, the Magistrate or Court of Session, as the case may be, may at any time resume the investigation or trial, and require the accused person, if detained in custody, to be brought before such Magistrate or

Court, or if the accused person has been released on security, may require his appearance.

Until such investigation or trial is completed, the case shall be considered as pending before the Magistrate or Court of Session, and shall be included in any register of pending cases kept by such Magistrate or Court.

The surety of such person shall be bound at any time to produce him to any officer whom the Magistrate or Court of Session appoints to inspect him, and the certificate of such officer shall have the same effect as the certificate of an Inspector General of Jails or the visitors of Lunatic Asylums, granted under section 384.

381. If, when the accused person appears or is again brought before the Magistrate or the Court of Session, as the case may be, it appears to such Magistrate or Court that the accused person is in a fit state of mind to make his defence, the investigation shall proceed, or the accused person shall be put on his trial, as the case may require.

If it appears that the accused person is still of unsound mind, and incapable of making his defence, the Magistrate or Court of Session shall again act according to the provisions of section 376 or section 378.

382. Whenever any person is acquitted upon the ground that, at the time at which he is charged to have committed an offence, he was, by reason of unsoundness of mind, incapable of knowing the nature of the act charged or that he was doing what was wrong or contrary to law, the finding shall state specially whether he committed the act or not.

383. Whenever such finding states that the accused person committed the act charged, the Magistrate or Court of Session before whom the trial was held shall, if the act charged would, but for the incapacity found, have amounted to an offence, order such person to be kept in safe custody, in such place and manner as to the Magistrate or Court of Session seems fit, and shall report the case for the order of the Local Government.

The Local Government may order such person to be kept in safe custody in a Lunatic Asylum or other suitable place of safe custody.

384. Clause 1.—When any person is confined under the provisions of section 379 or section 383, the Inspector General of Jails, if such person is confined in a jail, or the visitors of the Lunatic Asylums or any two of them, if he is confined in a Lunatic Asylum, may visit him in order to ascertain his state of mind; and he shall be visited once at least in every three months by such Inspector General or by two of such visitors as aforesaid, who shall make a special report to the Local Government as to his state of mind.

Clause 2.—If such person is confined under section 379, and such Inspector General or visitors as aforesaid shall certify that, in his or their opinion, such